PROCEEDINGS

AND

DEBATES

OF THE

CONVENTION OF LOUISIANA.

WHICH ASSEMBLED

AT THE CITY OF NEW ORLEANS

JANUARY 14, 1844.

ROBERT J. KER, REPORTER.

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1845.

DEBATES

OF THE

CONVENTION OF LOUISIANA.

In conformity with their adjournment at the town of Jackson, the Convention, in pursuance of an act entitled "An act to provide for the calling of a Convention, for the purpose of re-adopting, amending or changing the present constitution," met this day in the room prepared for their reception in the city of New Orleans.

At 12 o'clock, m., the Hon. Joseph Walker, senatorial delegate from the county of Rapides, and president of the Convention, took the chair, and the secretary proceeded to call the names of the several delegates.

Forty-nine delegates responded to their names.

The President rose and stated, that it was only necessary for him to say that, in pursuance of adjournment, the Convention had re-assembled on this occasion for the purpose of proceeding with its labors. The Convention were now organized, and he presumed ready to proceed to business.

He further stated that in the spirit of the resolution adopted at Jackson, inviting clergymen of the different denominations to open the procedings of the Convention with prayer, he was solicitious to have extended the invitation to the clergy of this city; but that upon an examination he found the resolution so worded as to confine the invitation to the clergymen in the immediate vicinity of Jackson. Not wishing to transcend the authority in any manner, of the Convention, he deemed it proper to bring this matter to their consideration.

Mr. Lewis, the senatorial delegate from the county of Opelousas, moved to amend the resolution inviting clergymen to open the proceedings with prayer, by substituting in the resolution, New Orleans, in place of Jackson; which amendment was carried.

Mr. Marigny, representative delegate from the parish of Orleans, made the following report:

Mr. President—The committee appointed by the Convention, sitting at Jackson, for the purpose of making the necessary arrangements for the reception and meeting of the Convention in the city of New Orleans, on the 14th of the present month, have the honor to submit for your consideration the following report:

Your committee first addressed themselves to the honorable the house of representatives for the purpose of procuring their room for the sessions of the Convention. The house having refused to grant it, your committee were under the necessity of procuring some other suitable apartment, and to procure the necessary furniture to enable the Convention to resume their labors. The account for the furniture will be presented to you in a few days, and will amount to about one thousand dollars.

Your committee applied to Mrs. Hawley, the lessee of the St. Louis ball room, with whom they made the following arrangements, subject to your approval:

Mrs. Hawley furnishes the ball room, and five rooms destined for the use of the clerks of the Convention; the principal room to be at the service of the Convention during its sessions, unless the legislature adjourning, the Convention should prefer the hall of the house of representatives.

Your committee have agreed to allow Mrs. Hawley fifteen dollars per day for the use of said locale.

Your committee are under the impression that this room, in every respect, is suited for the meetings of the Convention.

They would observe that Mrs. Hawley reserves to herself the privilege of retaining the room on the 17th, 24th and 31st of January, and the 4th of February, for the purpose of giving society balls, and will require it on these days at 4 o'clock in the afternoon.

Your committee deem it likewise proper to state, for your information, that the city council of the first municipality, design to place chains across the corners of Royal, Chartres and St. Louis streets, during the sittings of the Convention, so that their deliberations may not be disturbed by the passage of carriages and other vehicles.

(Signed,) B. MARIGNY, Chairman.
C. ROSELIUS,
G. LEONARD.

Mr. Claiborne asked for the adoption of the report.

Mr. Guion said that in that part of the room where he was seated, not one word of the documents read at the secretary's desk had been heard. If it was the report of the committee appointed to make arrangements for the meeting of the Convention in New Orleans, announcing their selection of this room, he should oppose its adoption. It was impossible to hear anything coming from the president's seat or from the secretary. He had not heard what the president had said upon taking the chair. A dozen members around him had been equally unfortunate in catching a syllable of what transpired.

Mr. Marigny replied that the difficulty complained of could easily be remedied; the seats of members could be brought much nearer to the president's desk, and to each other, so that every thing said during the proceedings would be audible.

Mr. Winchester submitted the following resolution:

Resolved, That the report of the committee of arrangements, be referred to a special committee of five members, with instructions to take this report into consideration, and to report thereon, and with further authority to inquire whether another and more appropriate room for the sittings of the Convention cannot be obtained in the city.

Mr. Marigny was opposed to this resolution, inasmuch as it submitted a duty already discharged by one committee, to the supervision of another. He thought that courtesy to the committee already appointed, would not permit that their work should be submitted to a second committee with the view of its being undone. The committee of arrangements were perfectly conversant with all the public buildings in the city suitable for the meeting of the Convention, and had selected the present *locale* because they thought it the best adapted to the purpose. The room was spacious and airy, and combined every requisite. The terms agreed upon were reasonable—fifteen dollars per day. What was the use of beginning *de novo* with another committee. If it was for the purpose of trying to save one or two dollars a day, by getting some other place, that object was, to his mind, very insignificant in comparison with the importance of proceeding with the labors of the Convention. Surely the Convention could not expect, reasonably, to get a room for nothing. The committee had made all researches; this room was in a convenient position for publicity, and was accessible to a great proportion of the population, resident and transient. It appeared to him to be a rebuke of what the committee had done, to refer their report to another committee; it was casting undeserved blame upon them, as they had done all in their power to accommodate the Convention, and to make the best possible arrangement.

Mr. Winchester said he would regret much if the passage of the resolution could be construed into any censure upon the committee of arrangements for what they had done. Surely nothing was farther from his mind. What he designed was, that the

committee to be raised, should inquire whether the contract proposed to be made by the first committee was proper. If the committee reported that it was, then all difficulty would be obviated. Little experience of the suitableness of this room has yet been had, and that has not been of a satisfactory character. It appears to be difficult to hear what is said on one side of the house on the other side. He had been removed but two seats from the one he now occupied, and he could there neither hear the voice of the president nor of the secretary. This was a serious objection. And, if the voices of those officers cannot be heard in the immediate vicinity, how are we to hear gentlemen whose seats are at the other extremity. He did not say that any better place could be obtained—but it would be proper and expedient to ascertain the impossibility from further investigation. Many of the members have but just arrived, and have had as yet no opportunity of satisfying themselves on that point. This resolution would enable them to do so. It was said that the Washington Armory, which was wider and otherwise more convenient, could be had. The committee could inquire and report whether it was not preferable for the meetings of the Convention, and make such arrangements as were most agreeable. He was opposed to springing this matter suddenly upon the Convention. Let us have at least the opportunity of inquiring whether a more suitable place—one better adapted, may not be procured. That was his object, and certainly no want of courtesy towards the committee of arrangements, who have provided this room.

Mr. Dunn said he had been for some days in the city, and his attention as a member of the Convention, had been called to the subject of where the Convention should meet. He had heard that the lessee of this edifice had asked twenty-five dollars per day for the use of this room; that price he considered to be rather dear; he had since learned that she consented to place it at the disposition of the Convention for fifteen dollars. This appeared reasonable, when the accommodations afforded by the room were taken into view. He had canvassed the matter, whether any better place could be selected, and from all the information he could obtain, he was convinced that none better could be had, or on more reasonable terms. The Washington Armory, which had been spoken of, he doubted much whether it could be obtained during the present week, on account of the engagements of the lessees. The committee of arrangements had discharged their duty as well as it could be performed, and he was clearly of opinion that their report ought to be adopted. The room is large and spacious, and the seats of members may very well be brought much nearer.

Mr. Kenner would suggest a middle course. The members of the Convention had, as yet, no opportunity of fully testing the advantages or disadvantages of the present location. He would, therefore, propose to suspend the further consideration of the subject until Friday next.

Mr. Downs said he was opposed to any thing which would have the effect of delaying the labors of the Convention. He did not wish the time of the Convention to be consumed with this matter. The committee of arrangements have procured this room, and it appears well adapted for the purpose. As to the difficulty of hearing, that may be remedied by bringing the seats of members nearer to each other and to the president's desk. He was for disposing of this question at once; and was, therefore indisposed to re-commit the subject, or to postpone it to another day. In hearing the report read, he was at first opposed to the condition, that the room should be at the disposition of the lessee for three or four evenings, but he had since heard that the furniture could be easily removed and returned, for the limited period she required the use of the room.

Mr. Ratliff would suggest that the report be first adopted, and that the delegate from St. James (Mr. Winchester) present his resolution in the form of a distinct proposition. The committee, under that resolution, might institute the inquiry whether any better place could be had.

Mr. Grymes said that there was no necessity for that. Let the question be taken on the proposition of the delegate from St. James, to refer the report.

The PRESIDENT put the question on Mr. Kenner's motion to postpone the further consideration of the subject to Friday next. Lost.

The question then recurred on Mr. Winchester's proposition to refer. Lost.

Mr. GRYMES moved the adoption of the report, which motion prevailed.

Mr. GARCIA asked and obtained leave of absence for Mr. Soulé, who had been called rom the city on account of bad health.

Mr. LEONARD presented a resolution that seats be prepared for the reception of the members of the Legislature, within the bar of the Convention.

Mr. EUSTIS said he did not oppose the adoption of this resolution through a want of courtesy towards the members of the legislature, but simply because the room was too small to admit of the presence of a greater number of persons within the bar than the members of the Convention. It was desirable that the labors of the Convention should proceed with all convenient speed, and that its proceedings should not be interrupted by the attendance of a greater number of persons within the bar, than its members and officers, for whose accommodation the room was scarcely more than sufficient.

Mr. LEONARD said that the seats of members could be drawn nearer, and that if this were done for their accommodation, sufficient room would be left for the reception of such members of the legislature as chose to attend.

Mr. GRYMES objected to the resolution, because it would interfere with the business of the Convention. The legislature have their business to perform, and we had ours. Let us do our duty, and leave them alone to do theirs.

On motion of Mr. WADSWORTH, the credentials of Messrs. Conrad and Benjamin, members elect, were referred to the committee on elections.

Mr. C. M. CONRAD presented a resolution for the printing of the reports of the several committees, with proper blanks and with the lines numbered.

It was adopted, with an amendment by Mr. Downs, that said work be executed by to-morrow, and that if the printer to the Convention be unable to execute it, the secretary be authorized to have it done elsewhere.

Mr. GRYMES moved that the Convention take up the report upon the first article of the constitution of the State, relative to the distribution of powers.

Which motion prevailed, whereupon the Convention went into committee of the whole, (Mr. Leonard in the chair.)

1st. That the powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them to be confined to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judiciary to another.

Mr. GRYMES called for the adoption of the foregoing section.

Mr. C. M. CONRAD suggested that the word "that" at the commencement, was superfluous, and ought to be stricken out. As the articles of the new constitution, he presumed, would not be submitted to a committee upon style, it would be necessary to make all necessary corrections before they were adopted. He instanced another mistake which was probably a typographical error. The word "confined" was employed for "confided."

Mr. DOWNS remarked, that as there appeared to be several typographical errors, and inasmuch as members who may have taken notes had not come prepared with them, not expecting at this preliminary sitting that the reports would come up, he would move that the committee rise for the purpose of making a motion for adjournment.

The committee rose, whereupon the chairman (Mr. Leonard) reported that the committee had had under consideration the first article of the report upon the distribution of powers, and that they had made some progress, and asked for leave to sit again.

Whereupon, the Convention adjourned until to-morrow, at 11 o'clock, a. m.

WEDNESDAY, January 15, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. SCOTT.

Mr. RATLIFF offered the following resolution:

Resolved, That the committee on contingent expenses be instructed to enquire into and to ascertain the amount of mileage due to each member of this body, for his travelling expenses to and from his residence to the Convention in New Orleans, and to direct the payment of the same.

Mr. BEATTY moved to amend the foregoing by adding "and that the committee report to the Convention.

Mr. GUION moved to lay the whole subject on the table, and called for the yeas and nays. The following was the result:

Messrs. Aubert, Beatty, Bourg, Brent, Burton, Brumfield, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Downs, Eustis, Garrett, Grymes, Guion, Hudspeth, Humble, Kenner, King, Ledoux, Legendre, Lewis, Marigny, Mayo, Mazureau, Peets, Penn, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Trist, Voorhies, Waddill and Winder—43 yeas; and

Messrs. Chinn, Dunn, Leonard, McCallop, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Stephens and Wederstrandt—11 nays.

Mr. WINDER moved that leave of absence be granted to Mr. Miles Taylor of Lafourche, who was prevented from attending the Convention, by a serious illness in his family.

Mr. EUSTIS regretted to be under the painful necessity of opposing the motion. Those who knew him would not believe that he was actuated by any want of courtesy towards the gentleman in whose behalf the request was presented, but would attribute his opposition to the true motive —a conscientious sense of duty. He readily conceded that this was an extreme case and assuredly, if under any circumstances the Convention would be justified in granting leave of absence, the nature of the present application would entitle it to indulgence. But it was not in reference to this case that his objections were urged. He was fearful that these requests would be multiplied, and would become but too common, if not checked at the very outset. At Jackson he had observed that they had gained ground to such an extent that it became a matter of course to grant them whenever they were mentioned.

Mr. E. referred to the application made yesterday, by the senatorial delegate from the German coast, for leave of absence to another member of this body. That gentleman was beyond seas for the recovery of his health, and certainly his claims to indulgence were entitled to great consideration. Yet, he (Mr. E.) would not have given his sanction to that proceeding any more than to the present application, had he anticipated then other requests of a similar kind. The necessity in the one case was equally as astringent as in the other, and he regretted that he did not object yesterday to that application. He submitted to the Convention, first, the question, what power had they to grant leave of absence? To his understanding, any member had a right to absent himself when he saw proper, and only be made amenable to his constituents for such absence. He (Mr. E.) denied the right of the Convention to interfere. If urgent circumstances prevented a member from attending, let his constituents judge of the urgency of those circumstances; that is a matter for their consideration, and he was opposed to the Convention taking upon itself to pronounce an opinion, and to absolve the absent member. If the indulgence be granted upon one pretext, it will be claimed upon others; the only way is either to shut the door or to open it widely. He repeated his regret to be under the necessity of opposing the present application; it was certainly sanctioned by considerations personal to the gentleman in whose favor it was asked, which had great weight with him, but he was so well convinced that if it were granted, and the principle were recognized, that other applications would follow, and the consequence would be a very serious interruption to the labors of the Convention, that he felt constrained, much to his regret, to oppose it, and to insist on its rejection; to put an end at once to all applications of a similar character.

Mr. GRYMES sustained a similar view of the subject. If the indulgence in any case could be granted, then certainly the gentleman whose application was pending,

was entitled to it. He (Mr. G.) acknowledged the great worth of that gentleman, and regretted his absence, as well as the circumstances that led to it. In reference to the application made yesterday to permit the absence of another member of the Convention, he (Mr. G.) would certainly have opposed it had it not been for the great desire he felt that the Convention should take up the reports and proceed at once with its labors. He apprehended debate, and that was his only reason for not opposing the application yesterday. The Convention, to his judgment, had nothing to do with permitting absence on the part of its members. Their absence was a matter between them and their constituents, for which they were only amenable to their constituents.

Mr. DUNN differed in opinion from the two gentlemen who had just addressed the Convention. He considered that no member could properly absent himself without out leave, and leave was only to be accorded upon the most urgent circumstances, exhibited to the satisfaction of the Convention. Among the rules adopted at Jackson, was one to that effect. It was the 39th rule. The object was to keep the members together, and to ensure their punctual attendance for the performance of the duties devolving upon the Convention. The present application was fully sustained by imperious necessity, and while he (Mr. Dunn) regretted the occurrence that caused the absence of that gentleman, who was a most valuable member of this body, he could not but yield his acquiescence to the request. He trusted the motion would prevail.

The question was taken, and it was carried in the affirmative.

The PRESIDENT informed the Convention, that he labored under an error in stating yesterday that the 50th rule, that the Convention may go into committee of the whole, had been adopted. It appeared that up to the 42d rule had been adopted, and the remainder, which were few in number, had not been adopted.

Mr. DOWNS moved that the rules be referred to a special committee of five, and asked the president not to place him on the committee, on account of his time being engrossed by other duties.

This motion prevailed, and the PRESIDENT appointed Messrs. Roman, Eustis, Mayo, Kenner and Read, said committee.

The PRESIDENT informed the Convention of the resignation of Mr. Louis Exnicios, door keeper.

Mr. GRYMES moved that it be entered on the minutes, that the president be authorized to appoint a door-keeper.

The PRESIDENT said he would prefer the Convention to make the selection.

The question was taken on Mr. Grymes' motion, and it was lost.

Mr. DOWNS moved to reconsider the adoption of the report of the committee of arrangements, to provide suitable apartments for the Convention. He had stated yesterday that the adoption of the report did not bind the Convention to retain their present apartments. He had since learnt that the adoption of the report was considered final in the matter. He would, therefore, move its reconsideration, and if that motion prevailed, he would next move that it be laid on the table, subject to call.

The motion to reconsider was carried, and the report was then laid on the table.

Mr. LEWIS moved that the Convention proceed to the election of door keeper.

Mr. RATLIFF nominated E. Remondet.

Mr. CULBERTSON nominated G. W. Reinecke.

Mr. PENN nominated J. K. Miles.

Mr. BOUDOUSQUIE nominated — Faures.

Mr. GARCIA nominated Joseph Chevalier.

The PRESIDENT appointed Messrs. Dunn and Culbertson, tellers.

The result was as follows:

Mr. Remondet,	34	votes.
" Faure,	8	"
" Chevalier,	8	"
" Miles,	4	"
" Reinecke,	6	"
" Blank,	2	"
" Hickey,	1	"

The PRESIDENT announced that out of sixty-three votes cast, Mr. Remondet had received thirty-four; consequently Mr. Remondet was duly elected.

Mr. MAYO moved that seats be allowed to the reporters of the several papers. Adopted.

On motion, the Convention took up the

ORDER OF THE DAY.

Mr. Lewis called for the reading of the report upon the first article of the constitution of the State, and moved some verbal corrections.

Mr. Preston moved to adopt in lieu of the first article reported by the committee, the original article of the constitution. There were only a few verbal changes in the report; the meaning was identical between the article as reported, and the corresponding article in the old constitution. Mr. Preston eulogized the old constitution; it was venerable for its age, and we had lived under it for thirty years; there were only three or four points upon which the people desired change. Let the constitution be preserved, wherever no change is required, and only let it be amended in the particulars where amendments are required. As for verbal changes to better the language, these were unnecessary, and he considered it would be better to leave the language as it was, and not consume the time of the Convention by a dispute upon words and syllables.

Mr. Conrad of Orleans, was happy to hear the eulogium pronounced by the delegate from Jefferson upon the old constitution, and he hoped to hear him often reiterate his admiration of that instrument during the progress of the labors of the Convention. As to what that delegate had said about disputing on words and syllables, he would remark that words and syllables were ideas, and were therefore very important. The time of the Convention might be much less profitably spent. He was pleased at what had fallen from the gentleman (Mr. Preston) in relation to the old constitution, which, coming from the quarter it did, was most satisfactory to him (Mr. Conrad) inasmuch as he understood it to imply that a sparing hand would be applied to that instrument by those who had hitherto professed the design of making sweeping alterations, and of changing materially its features.

Mr. Conrad said that the old constitution had been made at a most auspicious period; that its framers met with the harmony of a band of brothers, and were not actuated by the violence and bitterness of party strife; but were influenced by the same spirit of concession—the same lofty patriotism that animated the framers of the federal constitution. He was glad to hear the delegate (Mr. Preston) say that we had lived for thirty years under that instrument, it had promoted the happiness and prosperity of the State. Whatever misfortunes and reverses we have recently undergone, were not attributable to it.

While he expressed his concurrence in the admiration of the gentleman (Mr. Preston) for the old constitution, he could not concede that it was unnecessary to make corrections in the language, and to rectify grammatical improprieties. He thought some definite plan ought to be adopted in amending the constitution.

Mr. Wadsworth considered it trifling with great principles to discuss about mere words. He explained why the committee, of which he had the honor of being chairman, had incorporated an amendment in the second section of the first article. It was to preclude the monopoly of offices, by prescribing that no person or persons holding office under one of the departments of government, should exercise office under another. The present debate appeared to be about the superfluity of the word "and." If it is superfluous can it not be cut out? It was puerile to debate about so trifling a matter.

Mr. Downs said that to avoid any misconception that might arise from what fell from the member from New Orleans, (Mr. Conrad) he would make a few remarks. He agreed with the delegate from Jefferson, (Mr. Preston) that the old constitution should be touched as little as possible, except in material points. The language of that instrument should be preserved. It was consecrated to us by the associations of thirty years. We should not change a word or letter where there is not some urgent reason for doing so; and where we are in doubt as to the necessity of making verbal corrections, he would give to the original language of that instrument the benefit of his doubts. But in saying this much, and in concurring so far with the delegate from Jefferson, (Mr. Preston) he would not have the member from New Orleans (Mr. Conrad) infer, as he had seemed inclined to do in reference to the delegate

from Jefferson, (Mr. Preston) that he (Mr. Downs) had changed any of his opinions as to the vital importance of those salutary amendments to the constitution, which he (Mr. Downs) had always advocated. He had not changed his views; he had thought, and still thinks that these amendments should be made. Time, in his opinion, would be saved by passing over mere verbal corrections, after the adoption of the articles; they would, he presumed, be submitted to a committee of revision, who would suggest all such corrections as were essential, and the new constitution would be out as an entire work, not disjointed in any of its parts.

After some debate upon questions of order and of precedence, the question was taken on Mr. Preston's motion to adopt the first section of the first article of the old constitution; which motion was carried.

Mr. Preston moved to adopt the second section of the first article of the old constitution.

Mr. Lewis moved as a substitute, section second of the report of the committee.

Mr. Guion moved to amend said second section of the report, by striking out "collection of" and inserting after the word "persons," the words "being one of these departments or," and inserting in the place of "none of those departments" the words "one of them;" the section would then read as follows:

Sec. 2. No person or persons being one of those departments, or holding office under one of them shall exercise any power properly belonging to either of the others, except in instances hereafter expressly directed or permitted.

Mr. Guion said that the object of this amendment was to incorporate the principle of the report to exclude a plurality of offices in the same person, and to engraft that principle upon the article of the old constitution, which was to remain otherwise unchanged.

Mr. Downs called for the yeas and nays on Mr. Guion's motion. The result was as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Brumfield, Burton, Chinn, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Legendre, Lewis, Mazureau, Porche, Preston, Prudhomme, Pugh, Roman, St. Amand, Saunders, Scott of Feliciana, Stephens, Trist, Voorhies, Winchester and Winder—34 yeas.

Mrssrs. Brazeale, Brent, Cade, Carriere, Cénas, Claiborne, Covillion, Downs, Eustis, Humble, Ledoux, Leonard, McCallop, Marigny, Mayo, Peets, Penn, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Sellers, Waddill and Wederstrandt—25 nays.

So Mr. Guion's amendment prevailed.

On motion, the section was further amended; and on the further motion of Mr. Preston, the section as amended was adopted.

Mr. Preston movod that the committee on rules be instructed to make their report by to-moorow at 11 oclock.

On motion, the Convention adjourned till to-morrow, at 11 o'clock, a. m.

Thursday, January 16, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer by the Rev. Mr. Clapp.

Mr. Roman, chairman of the committee appointed to examine the rules temporarily adpted at Jackson, reported that the committee recommended the rules from No. 1 to No. 42. They also reported the balance of the rules, with some modifications, for the consideration of the Convention.

On motion of Mr. Downs, the rules were taken up, and read separately.

After some modifications, by Messrs. Ratliff, Downs and Lewis, they were finally adopted.

Mr. Downs moved the incorporation of the fifty-fifth rule into those adopted upon the subject of printing.

Mr. Kenner objected to its aboption, on the score that it would ental very heavy expense.

It was finally laid on the table subject to call, on the motion of Mr. Lewis.

Mr. Sellers submitted some statistical information from the State treasurer, transmitted by that officer in obedience to a call from the Convention. It exhibited the population of the State, amount of taxation, and the objects upon which taxes were imposed, and was made up for the year 1843. Mr. Sellers moved that it be printed.

Mr. WADSWORTH moved that a committee be appointee to wait on the treasurer, and to obtain similar information for the year 1844, and that the printing be suspended until all the information be obtained, when all the documents be printed.

Mr. Wadsworth's motion was lost; and the motion being taken on Mr. Sellers' proposition; it was carried.

On motion of Mr. LEWIS, the Convention took up the 2d article of the old constitution, together with the amendments of the committee.

Mr. RATLIFF moved to adopt the 1st section of the 2nd article of the old constitution.

His motion prevailed.

On motion, the 2nd section of the same article, as reported by the majority of the committee, was taken under consideration.

Mr. DOWNS explained that this article was reported precisely as it was in the old constitution, with the exception that the word "closing" had been substituted for "commencement."

This section was adopted.

On motion, the 3d section, as reported by the majority of the committee, was taken up.

This section fixes the general elections throughout the State, for *one* day, and for the first Monday in September.

Mr. WINDER moved to substitute "June" in place of "September."

But at the request of Mr. SELLERS, he withdrew the motion; and Mr. Sellers then moved to strike out September, and leave the period in blank, to be filled up hereafter by the Convention.

Mr. MARIGNY said he would oppose the motion to strike out September; and would briefly explain the motives that induced a majority of the committee on the legislative department to report in favor of fixing the period of election in September. There was no doubt but that the principle of free suffrage would be adopted by the Convention, and the only guarantee that would be provided for the restraint of the abuses of that pivilege, would be a certain probationary residence. If the elections were fixed for June or July, they would be exposed to the control of the floating population, who had no identity of feeling or interest with the true and permanent interests of the State. He disclaimed being actuated by local feelings, in advocating the retention of the month of September, in perference to any other time. He had arrived at that age, and had acquired that experience, which would preclude him from being governed by partial views or considerations. And the best evidence he could give of his frankness and sincerity, was his support of a proposition that would deprive the city, which he had the honor, in part, of representing, of the control which she would acquire over the balance of the State, by the principle of free suffrage, unrestricted, by placing the elections in a month which would insure the expression of voice, only of the real population who had actual interest at stake, or who were identified with the prosperity of the State. This course he took in the presence of his constituents; for those that thronged the galleries and lobbies were his constituents.

If you fix the elections in June or July, you place the result of the popular choice at the control of what is well styled the floating population—those birds of passage, who come to New Orleans for a limited season, and for some temporary purpose, and who are ready to quit at any moment, particularly at the period when yellow fever makes its appearance. By the month of September, these birds of passage have taken their flight, and the population of the city is reduced to the actual citizens—to those who have a real and permanent interest in wholesome and judicious legislation; in the maintenance of order and the preservation of our local interests. He considered that no good citizen was afraid of yellow fever; it was the baptism of citizenship, and he that went through it offered some guarantee of devotion to the country.

Mr. MARIGNY repeated, that he was too old to become the champion of any local interest. He was actuated by a sincere desire for the interests of the whole State—for every part and portion of it, and he was convinced that it was for the welfare of the whole State, that the elections should be held at a season of the year, when the actual population would alone have an opportunity of expressing their will. The population of the city of New

Orleans was swelled to 100,000 souls by the presence of transient persons, at this time, and hereafter that excess of population would be considerably augmented. Should the elections be held in June, the transient population would stifle the voice of the resident population at the ballot box, and not only will the city be subject to this control, but the country—the whole State will be swayed by it. This result could be avoided—and the dangers attending universal suffrage, be obviated by fixing the election at a later period—in the month of September, as proposed by the majority of the committee. Otherwise the vital interests of Louisiana will be at the mercy of these birds of passage; who are bound to the soil by no feelings of attachment; no community of interests, who have no property; no guarantee for their fidelity. He hoped therefore, that the time specified by the committee would be maintained. The principal of universal suffrage would no doubt be conceded, and some effectual checks ought to be provided against the abuses of that privilege. This was one which he considered to be most efficacious, and it ought to be preserved.

Mr. Roselius said, he regretted to differ with the gentleman who had just addressed the house, and to be under the necessity of taking a very different view of the subject. Sir, said Mr. Roselius, I regret that any sectional considerations should have been invoked. It is truly lamentable. The question before us is one of vital importance; it is whether the sacred principle of suffrage is to be subverted. If, as the member from New Orleans (Mr. Marigny) apprehends, it be the intention of the Convention to extend the right of suffrage to all, it will only be because in its wisdom it judges it to be right and proper to do so. If the right be conceded, it would be strange if this body were to determine that the high privilege should be extended to all, and yet in the same breath, prescribe that it should only be exercised when the city is deserted. When an epidemic is casting its fearful ravages and seeking with insatiate fury, fresh victims. At a time when one-third of the population, as is usually the case, have sought safety abroad. Is it right and proper a such a time as this to open the ballot-box es and call upon the citizens to vote? T announce the great priciple of the electiv franchise to all, and yet fix its exercis when nobody can enjoy it; when the po pulation is reduced and the number of vo ters must necessarily be small, I cannot said Mr. Roselius, perceive any reason fo this proceeding. To disfranchise a larg proportion of the population, who, fron necessity—from the urgency of danger happen to be absent during a particula month, or a particular season of the year

It is well known, that to avoid the pe riodical visitations of the epidemic, some of our most respectable citizens are in the habit of absenting themselves, and have never become acclimated from the fear they entertained that the attempt might be followed by fatal consequences. And, because they have never exposed themselves to the fiery ordeal—have never, in the language of the gentleman from New Orleans (Mr. Marigny) been subject to the baptism of the yellow fever, they are not to be considered qualified citizens, and are to be debarred the sacred privilege of suffrage. The political principle of suffrage, said Mr. Roselius, is inherent in every freeman, and I cannot see how it can be restricted and denied; because a citizen does not choose to incur the risk of contracting yellow fever or any other epidemic that may prevail at a particular season of the year.

Mr. Roselius said he did not comprehend what the gentleman from New Orleans (Mr. Marigny) meant by "birds of passage," which was applied by him to distinguish a certain portion of the population. If that class were meant who acquired no residence among us, and were not entitled to the privilege of citizenship, surely no one in the Convention or out of it, would pretend to maintain that the privilege of suffrage should be extended to them.

For himself, he (Mr. Roselius) was in favor of the extension of the important right of suffrage. He had always been in favor of its extension. He was never opposed to it, and had never expressed an opinion against it. It was true, he had been mis-

represented, because when a member of the legislature he opposed an attempt to violate the constitution; and opinions were imagined for him by those who did not know, which he never entertained. He never was, and never should be, in favor of restricting the inestimable privileges of suffrage, provided the right was protected and guarded by proper enactments. Provided a proper registry law were passed, to put a stop to frauds and corruptions; to prevent outrages, and to put proper guards for the assurance of the sacred privilege against the frauds, forgeries and corruptions which had become of late but too frequent, and were perpetrated with the utmost recklessness of purpose.

He was decidedly in favor of extending suffrage to all that were entitled to it by citizenship. Those that were not citizens and had no intention of becoming citizens, who could properly be classed as "birds of passage," as "the floating population," they might well fall under the ban of the gentleman from New Orleans (Mr. Marigny,) but not citizens who were as deeply interested and had as much involved in the prosperity and good government of the State, as any portion of the community.

He assented so far as the arguments of the gentleman (Mr. Marigny) were predicated in relation to those that were not citizens: who were here transiently, for a few days or a few months, and who would probably never return. They acquired no rights of citizenship and were not entitled to the privileges of suffrage. He held it as a fundamental principle that the right of suffrage resided in the people. What people? Those comprising the community in which the privilege is to be exercised. To fix the period for its exercise, when one-half of the legal voters were absent at the north, or in the west—in the south or in the east—upon business or upon pleasure, flying away from the pestilence, was to make a mockery of the elective franchise, and to restrict it to a few persons. He would vote for the proposition to strike out the month of September.

Mr. Preston said he did not anticipate that the subject under consideration would have come up at so early a stage of the proceedings, and he must, therefore, confess that he was unprepared to discuss it; it had come up so unexpectedly.

The delegate from New Orleans, who had just set down, had spoken so forcibly and powerfully, as to leave him (Mr. Preston) but little to add. He was unwilling, however, to give his vote without saying a word or two.

One position, said Mr. Preston, we must assume: who shall be citizens of Louisiana? Upon this point there are a variety of opinions. For one he was in favor of conceding every facility to become citizens; not only because it was liberal and just in itself, but because it would contribute and ensure the prosperity and advancement of this great and growing State. In the progress of the deliberations of this body, he should advocate that policy as far as his vote and his little say went.

A rule would have to be fixed by the Convention, establishing what residence is requisite for persons coming among us to be citizens of the State, and to be entitled to all the privileges consequent thereon. In establishing that rule, we should not be influenced by narrow and selfish motives, but should receive with open hearts, with liberality and with generosity, all that desired to cast their lot among us. By the constitution of the United States, citizens of one State were entitled to all the privileges of citizenship in another; the period when the right of suffrage should be conferred was left to the discretion of each State, and in his conception, the slightest impediment that could be imposed, would be the best and wisest policy. He was invincibly opposed to that error of government, which enabled one class to have advantage over another. Which prescribed that one class of free white citizens, should be debarred a privilege granted to another class. He considered it anti-republican—illiberal and unjust. In saying this he did not wish to reflect in the slightest manner upon the motives of that venerable and respectable citizen, with whose views on this occasion, he so materially differed.

But what will be the inevitable consequence of this inequality among our citizens? It will be a source of perpetual struggle and unceasing discontent. The gentleman that last addressed the Convention, (Mr. Roselius) alluded to the supposed frauds committed upon the ballot box. What are they? Frauds on behalf of human nature. The attempt to partici-

pate in a right which is unjustly withheld, and which belongs to them as creatures of the creator—of the Great God who endowed them with the same inalienable rights.

He would inquire what else could be anticipated, than the struggle for equality on the part of those that were deprived of a right common to all, and yet by an unjust and unworthy prejudice, limited to a few? It would be, he repeated, an undying struggle, and would only cease with the unfortunate cirumstances that gave it birth. It was a manifestation of a want of love. It was acting on a narrow principle, instead of a broad, noble and generous principle. We should teach ourselves and our children, not to rely on fortuitous distinctions—not on mere accidental circumstances; but to rely upon the advantages of superior energy, superior talents and indomitable perseverance. We should act on this ennobling principle, and teach it to our children. We should teach them what is to be attained by rising early and sitting up late; by indomitable perseverance and industry. That is the lesson we should inculcate—not that by the mere accidental circumstance of being here, they are to be endowed with exclusive privileges and are dispensed from making any exertion. We should invite our children to embark in the career of usefulness and laudable ambition, with all that have merit —let them come from where they may, and teach them that intrinsic merit can be the only test, and only distinction. Let the field be disputed by superior energy, greater industry, greater talent. not by mere priority of residence. Let the spirit of emulation be stimulated by a wide competition, in which all our citizens may engage, without reference to artificial distinctions, based upon the sordid calculation of a few years residence.

These, said Mr. Preston, are the general views of the question. Now as to the particular considerations. The month of September is a season of general relaxation. Our merchants, who have toiled and labored through the winter—and who, for enterprise, industry and public spirit, will vie with the merchants of any other city of the Union; after contributing during the winter to the wealth of the city; either for business or for pleasure, repair to the north or to the west. The mechanic, who has seduously toiled, does the same thing, and even the common laborer, if we descend to him, if decent it can be called, relaxes his ponderous arm, and for a season tastes the enjoyment of repose. The toil of the winter is past—the hum of activity is hushed—the shaking of the earth by man's labor is suspended—the hurly burly for a brief period ceases; the drayman turns his mules into pasture, and avails himself of the suspension of his daily pursuits, to retire in the country—to go up the river or across the lake. So, too, is it with the planter: his labors for a season are over; his crops laid by, and he goes either north or west for his pleasure, or with an eye to his business. Surely, he is entitled to this relaxation! His health may be impaired, and it may be necessary for him to recover it, to go to the hot springs of Arkansas, or to the mountains of Virginia; he may visit some near and dear relative,from whom he has been separated for a series of years. Whatever may be the motives, he is surely entitled to absent himself, whether it be for a few days, for a few weeks, or for a longer period. Must he on that account be deprived of any of his political privileges—must he pay a penalty for his temporary absence? Why so? Is he not as much interested in the welfare of the country, as if he were actually within its limits; is not his property, or his affections, his business or some other preponderating consideration, or all of these, as much involved, as dear to him, as if his foot were actually upon the soil, and would he not fly as quickly to the rescue, if the State were exposed to danger, as any citizen? But he may be afraid of the yellow fever, and he may be flying, as he considers it, for his life, to a more salubrious clime. Well, what of that. The only way to cure him of his fears is to eradicate that fell destroyer, and the only means of accomplishing that desirable result, is to invite and promote emigration. Pursue a liberal course to those inclined to come among us, and you will attain this end. Invite emigration by the liberality of your laws, and your swamps, the prolific sources of disease, will be drained. They will be cleared, and you will have accomplished as glorious a work, as that of Cesar, when he drained the marshes near Rome,

which conferred more true glory on him, than all his brilliant victories. Induce, then, by all possible means, emigration; it has made the United States; it has built up the city of New Orleans; it has peopled the great West, and is destined to accomplish the most important results. Like the great Nile in its overflow, it will fructify and enrich the State.

Do not do any thing to keep away population: we want it all. Ninety-nine out of one hundred of those that come among us make useful citizens. They are found to be among the most enterprising—the most energetic of our citizens. Who have opened the best plantations? Who have distinguished themselves most at the bar, in the pulpit, in the mercantile pursuits? Is it not those citizens who have come among us; who have removed from their former homes for a more extended sphere of action—a wider field for their talents and industry. Some of them have come with but a single trunk, which contained all their worldly wealth. Some with but the garment they had on, and yet they have made their way; they have established by their energy, their fortitude and their genius, a proud name among their fellow men. They have built magnificent edifices, they have adorned your city—they are foremost in promoting every public improvement; and in building up their own fortunes, they have built up your city, and are destined, they, and those that follow them, to make the State rich and prosperous. They will contribute towards paying the debts of the State. The actual liabilities of the State amount to four millions of dollars, and the eventual liabilities to some twelve or fifteen millions. It is by the industry of "those birds of passage" that we must look for means to cancel that indebtedness. It is from them that we are to expect the clearing of our swamps and the tilling of all our soil. Come, then, let us encourage them to settle among us; let them come with their little means and their public enterprise, and if they have nothing but their two hands, let us receive them with welcome, they possess true fortune—honest hearts and strong hands; they will build and improve, and our liabilities will become as a mere drop in the bucket. Do not let us listen to petty jealousies, to foolish distinctions. Do not let any baneful jealousies prevail between town and city. The policy that is beneficial for the one, is beneficial for the other. Let not the city be pulled to pieces under the pretence of building up the country. Let there be reciprocal feelings of good will between them, and an identity of feeling. Young men in the city, it is true, have not always the activity and energy of young men in the country; it was amid the pleasures of a city life that they became frequently enervated; in this very room, in the blandishments of the seductive dance. To the country they retire to regain their health, and to reinvigorate their bodies. There was a mutual dependence between town and country. This was the view he (Mr. Preston) took. He trusted that a liberal policy would prevail, and that the Convention would discard all prejudices, all narrow minded distinctions—that they would give every facility of acquiring all the rights of citizenship, and that they would impose no restrictions upon those rights, when they were once granted.

We should then become a happy, united and contented people, and all would redound to the glory of our common State.

Mr. Marigny said that, as he observed no other member of the majority of the committee had seen fit to address the convention in favor of the period fixed for the elections throughout the State by the report, he felt himself called upon to speak again, for the purpose of responding to the arguments on the other side. He understood full well the difficulty of his position, having to contend against two men of brilliant and powerful talents; yet, notwithstanding he hoped to triumph over them by the intrinsic strength of his position.

The gentlemen had misapprehended his argument, when they understood his object to be to deprive some two or three hundred merchants of the privilege of suffrage by bringing on the elections in their absence. That was not his object. He apprehended no danger from that class, nor did he desire to affect their right of suffrage. The danger he feared was from another quarter, and well known to those who were at all conversant with the city. By placing the elections in the month of September, the evil was avoided. There was no doubt but the principle of univer-

sal suffrage would be conceded by the Convention. It was the democratic principle, and the people required it. The population of New Orleans was at present one hundred thousand souls; a little reflection would exhibit the great preponderance of population in favor of the city over the country, and it could very easily be inferred, if the principle of universal suffrage prevailed, and that it would prevail he had no doubt; and the elections were brought on at that season of the year when the population of the city was at its maximum, what would be the consequence? The democratic principle was that men and not property should be the basis of representation. New Orleans was destined to become the greatest city in the world. Even as far back as 1772, a man of great judgment and research, when the city of New Orleans contained but three or four thousand persons, while writing on the Indias, predicted that New Orleans would become the greatest city in the world. A glance at the map of the United States will at once satisfy the most incredulous.

It requires but little segacity to perceive that with universal suffrage, the city of New Orleans, unless some expedient be adopted, is destined to engulph the political influence of the balance of the State and to control its destinies. Since the danger is imminent, common prudence dictates that it should be avoided, and the most certain way of avoiding it, with the principle of free suffrage, is to bring on the elections when none but the resident population are in the city. There can be no doubt that if the elections be held in May, under the system of free suffrage, New Orleans would elect the governor and a majority of the legislature. The true policy would be, then, to diminish the influence of the city. He wished the city to retain that proper weight to which she was entitled, but he would neither have her permanent interests nor those of the country sacrificed, by taking the power entirely out of the hands of those that were identified with the State and its real interests, and transfer them to a mass of persons who had nothing at stake, and who were reckless of all consequences.

Look at the city of New York. Is it her merchants that control her elections? or is it the population to which he had alluded? We should look into the future. We should diminish or preclude the influence of a class not identified with our local interests and peculiar institutions. If the power be suffered to pass into their hands, the resident population throughout the State will be suppliants; they will be at the feet of their masters. All history teaches us an example. The house of representatives in the United States; the house of commons in England; the chamber of deputies, are the governing and directing powers. The reason is simple, they have the power of raising money, and appropriating it. Hence we see that, in England, Queen Victoria courts the commons; Isabella the Cortes; and Louis Phillippe trembles before the chamber of deputies. These bodies have the appropriation of the funds, and money governs the world.

He was no lawyer, and had not the eloquence of the gentleman who had answered his arguments. He felt under obligations to the gentleman who had last spoke (Mr. Preston) for his compliments, and returned him his acknowledgements.

Mr. Conrad of Orleans, expressed a desire to address the house, but as the hour was advanced, he moved for an adjournment until to-morrow at 10 o'clock, which motion prevaled.

Friday, January 17, 1845.

The Convention met pursuant to adjournment.

The proceeding were opened with prayer by the Rev. Mr. Nicholson, of the Methodist Church.

The President submitted a letter from Bishop Blanc, in reference to an invitation to the Catholic Clergy under his charge, to open in turn, the proceedings of the Convention with prayer.

Mr. Ratliff, on behalf of the committee on contingent expenses, brought to the consideration of the Convention a claim from Mr. Kelly for one hundred and fifty dollars for printing. He desired to ascertain the wishes of the Convention in relation to said claim, and at the same time suggested that it would be proper to confer authority upon the committee to pay similar claims for services rendered to the Convention, without the necessity of troubling the Convention with them.

The President remarked that the pro-

per course was to report the claim to the Convention, and to take the sense of that body thereon.

On motion, the committee were authorized to pay Mr. Kelly the amount due him.

Mr. Downs presented a resolution authorizing the sergeant-at-arms, under the direction of the president, to provide suitable places for the reporters of newspapers within the bar, and seats without, for the accommodation of the public.

Mr. Ratliff said, before adopting this resolution he would like to inquire what would be the expense? He was not disposed to have seats placed without the bar for the public, which would be monopolized by the first comers, and which would exclude the greater portion of the public; for these seats would necessarily occupy considerable space, and those that were not fortunate enough to get in in time to occupy them, would be compelled to retire altogether. He thought it better not to provide seats; the whole space in the lobbies being left open for the accommodation of the public, those that become fatigued or uninterested with the proceeding or debates, would retire, and give place to others. It would happen that our lobbies would be sometimes crowded and sometimes not crowded. When they were crowded we could not provide seats for all, and it was better to leave every one in the same condition. Do not provide seats for some few, which few would exclude the many. On the principle of economy, too, said Mr. Ratliff, we should spend no more money than is indispensably necessary to complete the great work for which we are chosen. The members of the Convention, with commendable liberality, have refused to receive mileage for repairing to the city of New Orleans to attend their duties. Let us carry out the principle—that is the true doctrine. If we provide chairs they will be broken; and if it be benches, the whole space will be occupied and rendered inaccessable to the great mass. The Convention by a vote, which he regretted, had refused to invite and provide seats for the members of the legislature; and now, we are asked by this resolution, to provide seats for the people! Let us, at least, be consistent in what we have done. If the powers of eloquence of this honorable body cannot charm the public to come and hear us—if we cannot interest them by the importance and interest of the topics we shall discuss, he, for one, was indisposed to go to the expense of placing cushions for the convenience of some, while many others would be unable to penetrate into our lobbies, by the very room which those seats would occupy. The gentleman (Mr. Downs) who proposed this very resolution, was a distinguished member of one of the bodies of the legislature, the members of which were excluded by the rejection of the resolution which invited them to seats in their own bar; he certainly regretted the result. But inasmuch as we have taken that course, let us not make any invidious distinctions. He (Mr. Ratliff) had never heard that seats were provided by other legislative bodies for the accommodation of spectators; it was not done in congress, to his knowledge, and why should we incur this additional expense. We have adopted the principle of economy, and let us not incur one dollar's expense which is not indispensably necessary.

Mr. Downs said the gentleman (Mr. Ratliff) made "much ado about nothing;" "a tempest in a tea pot." It was but a small matter. The house of representatives of the State, of which body the gentleman had been a member, had seats provided for the public; so had the senate, as the gentleman (Mr. Ratliff), if he did not know, could easily see by a visit to the lobbies of that body. If congress had not seats provided for the auditory, it was the first time he had heard it. He regretted to see the gentleman (Mr. Ratliff) making so great a display about nothing. If the State be so poor, so impoverished, that she cannot provide seats, be it so; that was the only argument that could be adduced; but he could not concur in it. The gentleman had spoken of the fate of a resolution inviting the members of the legislature to seats within the bar of the Convention. It was true that resolution was lost, but he apprehended it was through inadvertency; it was, however, totally unnecessary, as by one of the rules adopted yesterday, all officers of the State and of the United States, were privileged to seats. Did he understand the gentleman (Mr. Ratliff) to say, he was sure the gentleman did not mean it, that we should exclude the public, by refusing the conveniences which are necessary upon

their attendance, and that we should shut ourselves up like another star chamber, and exclude the public scrutiny? He begged the Convention to excuse him for troubling them with so small a matter.

Mr. MARIGNY remarked that seats had been provided at Jackson, for the accommodation of the public. He could see no reason why the same courtesy should not be extended to the public of New Orleans. The committee of arrangements in Jackson, of which, he believed, the gentleman (Mr. Ratliff) was chairman, had expended three thousand dollars to fit up the hall for the accommodation of the legislature. The committee of arrangements, in New Orleans, have expended but one thousand dollars.

Mr. DOWNS' resolution was adopted.

ORDER OF THE DAY.

The Convention resumed the consideration of Mr. Sellers' motion to strike out September, as the period for holding the general elections, which was under discussion when the Convention adjourned yesterday.

Mr. C. M. CONRAD said, before the question was put to vote, he had a few, and a very few remarks to make, and he made them rather with a view of explaining his own position than with the expectation of influencing the opinions of others whose minds were, without doubt, finally made up.

When the report was made last summer by the majority of the committee on the legislative department, fixing September as the period for holding the general elections —a period which was to extend through all time—as long as the Constitution we were now forming would endure,—he was at a loss to determine what were the motives that influenced the committee in this selection. He had heard various months suggested by various members, but until the report was made, he had never heard the month of September recited among them. He had held his judgment in suspense, to hear something to justify that selection, and had listened with the expectation that the chairman of the committee would enlighten the Convention upon the subject, but had listened in vain; that gentleman had not vouchsafed to enter into any explanations, and it would seem, that the duty had devolved upon his colleague from New Orleans (Mr. Marigny) to explain the motives that governed the committee. He certainly had no objections to this course, it was very well, but it authorised him to take it for granted, that the member (Mr. Marigny) had uttered and explained not only his own motives but those of the committee that made the report.

The PRESIDENT said it was not in order to attack the motives of members; much less to infer their motives from what may have fallen from one of their colleagues in debate.

Mr. CONRAD said, the president certainly labored under a misapprehension. He attacked no man's motives. Those of the gentleman (Mr. Marigny) were, without doubt, laudable and patriotic, as were the motives of the other members of the committee that concurred in recommending the month of September, as the proper time for holding the elections. He merely understood the gentleman (Mr. Marigny) as, not only giving his own views for the preference, but those of his colleagues on the committee that participated in that opinion. He understood the gentleman to be the organ of the committee, and to have given verbally the reasons that actuated the committe in reporting the month of September. Surely, he was not out of order in examining the force and cogency of those reasons.

The PRESIDENT said he had no design of restricting the gentleman. He had merely cautioned him of the rule.

Mr. MARIGNY hoped the gentleman would be allowed the utmost latitude. He would, however, inform that gentleman that the opinions he had expressed upon the subject were his own, and that he had not taken upon himself to interpret or to express the views of any of his colleagues upon the committee. He was perfectly willing that the gentleman should analyze his motives.

Mr. CONRAD said, it would seem that the misapprehension of the President had extended to his respectable colleague. He repeated, again, that he contemplated no assault upon motives. He had presumed that the member was the organ of the committee and had expressed their views, but if this were not so, unquestionably the gentleman was the organ of himself, and his arguments were proper matters for examination.

He had listened with profound attention, with pleasure, to what had fallen from that gentleman, and concurred—cordially, heartily concurred in most of his sentiments. It was truly remarkable, that while he concurred in those sentiments—while he admitted the force and cogency of the gentleman's arguments, he differed totally from him in his conclusions, that to place the elections in the month of September, would be a sovereign remedy for the evils so gloomily but faithfully depicted by him, as the result of universal suffrage unrestricted, unguarded by any of those checks and balances which the peculiar position of this State appeared to render so indispensably necessary. He had said it was remarkable that he participated in the apprehensions of the gentleman, as to the calamities that would attend such a system, and yet could not vote for the proposition presented by him as so efficacious a remedy; while on the other hand, he differed from almost, if not every position of the delegate from Jefferson, (Mr. Preston) with whom, however, he concurred in the vote that delegate would give upon the question. He would take the vote of the delegate from the parish of Jefferson, and the argument of his colleague from New Orleans. The gentleman from New Orleans had taken as the substratum of his argument, the ground work to establish his positions, that the Convention were about to adopt the principle of universal suffrage, without any of those salutary checks, any of those wholesome restrictions that prudent sagacity would dictate—without any checks or balances whatever. The gentleman, he repeated; had drawn a gloomy but faithful picture of the disorders—the calamities of such a system, and had presented an admirable argument against it. The gentleman had exhibited in vivid colors what would be its inevitable tendency—that it would stifle the voice of the real and permanent population of the State, and place her true interests at the mercy of those having no identity of feeling or of interest in common with her—commit her destinies to strangers, and the substance of her children to be devoured by those "birds of passage" that flock among us for a brief season, and then fly away to other regions.

The gentleman from New Orleans, (Mr. Marigny) had drawn attention to the peculiar condition of things in this State. To the large proportion of slave population in the country, and to the peculiarity of a large commercial city, entirely disproportioned, in population and in wealth, to the balance of the State. He had argued from the ratio of increase of population in this great city, that her population must increase more rapidly than that of the balance of the State, and that unless some means be devised to prevent such consequence, transient persons—persons who have no attachment to the soil, and no permanent interests at stake—"birds of passage," as he has aptly termed them, will obtain possession of the government and dethrone the owners of the soil—those identified with it by interest and affection, and supersede them in their rightful authority. He predicted this result, unless some means should be adopted to preclude it. The remedy that he suggests, as all powerful, is to fix your elections in September.

Now, Mr. President, (continued Mr. Conrad) I am far from believing that this Convention is prepared to adopt any system, from which such consequences can flow. I am far from believing that it is the wish of the citizens of the State—the owners of the soil; those whose families, whose interests, whose affections are bound up inseparably with Louisiana—that such an unfortunate and mischievous system should prevail. I do not believe they would ever permit the management of their affairs to be confided to persons not identified with them in feeling and in interest. It would be a gross violation of the will of your constituents—a shameful betrayal of your trust, to displace, by any act of yours, the rightful, the legitimate owners of the soil from their just ascendency, to thrust them out to give place to strangers—to "birds of passage;" and not only "birds of passage," Mr. President, but birds of prey that would perch upon the vitals of the State and devastate her institutions.

The people of Louisiana, Mr. President, said Mr. Conrad, assuredly were far from anticipating such a result to the labors of this body; when consulted, it was true, they decided in favor of amending the constitution, but they never had the remotest idea that any thing so dangerous would be entertained, much less consummated. It

was true, that the popular feeling was in favor of an extension of the right of suffrage—that it should be enlarged, and that the defects, which experience had pointed out in the existing constitution, should be removed. They were anxious that the restricted system of suffrage which now prevailed, should be so enlarged as to extend that privilege to a more numerous class of citizens; they were disgusted with the evasions and perversions to which, perhaps, the system itself gave birth; but in extending the right, they wished that extension to be accompanied by some guarantee—some assurance against the recurrence, not only of the abuses they had witnessed with pain and mortification, but against other and graver abuses that would result from that extension, if adequate checks and proper remedies were not provided. Far from him was the design to impute the irregularities and violations that have been perpetrated of late upon the ballot box, to this or that party in particular, to this or that class of citizens. He disclaimed all such intentions, and was actuated here by no party feeling. All men and all parties may have been more or less to blame, but he had yet to learn that any portion of the State desired to see those evils realised which have been so gloomily, yet so faithfully and eloquently depicted by his colleague (Mr. Marigny.) If that gentleman could only have convinced him that such a design was entertained in this Convention, and that holding the elections in the month of September would be an effectual check; while he would have resisted with all his powers, the mischievous principle itself—unlimited for evil, without guards and without checks—he should have united heartily upon that or any other expedient which would preclude or even lessen the calamity. He was yet to learn that the design was seriously entertained by any one here, to break down the walls which have been raised for the protection of the true interests of the State, for their preservation—to destroy the bulwarks erected by our forefathers for the salvation of our institutions and our liberties—to widen the breach so far that all may enter, be they whom they may, come from where they may—wafted to us by every breeze and by every billow, and floated down to us like so much driftwood upon the broad bosom of the Mississippi. That all these, just by the mere accident of touching our soil, should be converted into citizens, and marched to the poll to stifle our voices! He could not credit such a design as being actually entertained in this body by any one, and he would not believe it until it was manifested to him by the yeas and nays upon the journal.

But suppose, said Mr. Conrad, that my colleague (Mr. Marigny) is right in his alarming conjecture, and that I am wrong in doubting it. Do I misapprehend the efficacy of his remedy? The question is will it prevent the evils he apprehends? I think not. If the system he anticipates be actually entailed upon the State it is quite immaterial to me. I do not care when the elections take place, in what month, from January to December. The consequences will inevitably ensue let them take place when they may. It must be borne in mind that many of the natives, many of the resident population of New Orleans, those having a visible interest, absent themselves during the summer months. Some of the 'floating' population whose influence in our elections the gentleman (Mr. Marigny) so much fears, do the same thing; but the great mass remain; they have not the means of quitting the city, nor is it always quite convenient for them to do so. The city may hold out to them some inducements to brave even the redoubtable yellow fever, and as far as some of them may be concerned, there is not much choice between the yellow fever on the one hand and starvation on the other. This numerous class, at least nine-tenths of that population, actually remain, and would be as ready to vote in September as in January.

The only effect then, of the gentleman's proposition would be to exclude such of our citizens as might be absent on business, for pleasure, or for health, while the privilege of suffrage would be open to unrestricted exercise on the part of those he so much dreads, it would be denied to those who, even under our present restricted system are entitled to a vote, merely because they happened to be absent at a particular season of the year, when sickness and inactivity reigned. It would result then, that a respectable class of our community would be disfranchised, few in numbers in comparison to the population that have excited

so far his apprehensions, while the right of suffrage would be accorded to a mass, for whose fidelity we possessed not the slightest guarantee, for where one American citizen leaves the State for a few months, a thousand transient persons either arrive or remain. That would be one consequence of the gentleman's proposition to disfranchise some of our best citizens. He predicted to us the mischief that will follow a system of universal suffrage, unrestricted, unlimited, without any checks whatever, and then he tells us with the most positive confidence: select the month of September for your elections and you do away with the evil: you preclude the calamities that will inevitably result from that baneful system of unlimited universal suffrage; that is, you may adopt a vicious and imprudent system, if at the same time you provide a remedy. You may administer the poison if you will, but take my antidote! We must make ourselves sick to enjoy the satisfaction of testing the gentleman's sovereign panacea! As well might we attempt to cure a vital disease by a plaster upon the finger, as to attempt to arrest the host of evils which he has so truly and faithfully depicted, by placing the elections in September! As well might we attempt to stop a creavasse caused by the mighty Mississippi by a wisp of straw, or a shovel full of earth! The evils and calamities must ensue, if you adopt the system; they are inseparable from it if you do not provide some limits, some checks, some means of prudent restraint. Let us take a retrospective glance at the population, to whom the gentleman has referred. They are a moving, "a floating population," some of them may remain for one, two, or three years, may have passed though the fiery ordeal of the yellow fever one summer, and then may leave the city as unexpectedly as they came into it, with as little feeling of identity, as little interest in its prosperity, as they had the very first day they landed upon its shores. This is the class of persons whose influence would be deleterious to our elections. I fully concur, said Mr. Conrad, in that opinion with my colleague from New Orleans, (Mr. Marigny) but I altogether deny and controvert his position, that by placing the elections in September, you may extend to them with impunity the right of suffrage, as they will not be present to avail themselves of the privilege. This is a falacious and visionary notion, and God forbid that we should trust our safety to it, exposing ourselves heedlessly and recklessly to the danger, which in the gentleman's opinion, would make the expedient.

I would, said Mr. Conrad, not create the mischief, and then the expedient of the gentleman, admitting it to possess the efficacy that he claims for it, will be unnecessary. I am glad, however, that the gentleman expressed himself so decidedly, because it is in earnest that he appreciates the evils of unrestricted universal suffrage, and knowing them and deprecating them with the force he has, it is not reasonable to infer that he will contribute his vote to impose so serious a calamity upon his country. The right of suffrage, I readily admit, Mr. President, ought to be defined with liberality; but to make it of any value —to prevent the greater possible evils—it should be guarded, it should be fenced in by proper checks and balances. The main thing is to exclude those migratory residence among us—that have with us no identity of interest or of feeling, but are merely with us to subserve some purely personal purpose, and are ready in a moment to be wafted back from whence they came, or any where else, and turn their backs upon us; they should be excluded from the extraordinary privilege of controling our elections; but at the same time in doing this, we should exclude no citizen, no man that offers positive guarantees of his attachment to the country, be those guarantees either in his possessions, or affections from the privilege of suffrage. We may inquire and determine upon what conditions the privilege may be accorded; this is essential to the well being and safety of the body politic, but when once the privilege is granted, we should, by every means in our power, facilitate its exercise. We should not give the boon with one hand and withdraw it with the other. Once conceded, the concessions, as the conditions, should be final. The wheat should be first separated from the chaff, and that done, the utmost equality should prevail.

No citizen should be despoiled of his right to vote, nor should he be called upon at an inconvenient orinopportune moment to exercise the privilege.

The gentleman from Jefferson (Mr. Preston) in the philanthropic dreams that have been excited by his vivid imagination, had depicted in glowing colors the advantages that would accrue by making the State the great recepticle for people from all the world; and in his profound sagacity has discovered a new and novel system of political economy, and that is this, that we may by recruiting our population, it matters not of what materials, extinguish all our public liabilities—not by dollars, but by extending to the new comers all the privileges of citizenship at once, upon their arrival, and increasing thereby, indefinitely the number of voters at the ballot box! If this new system of the gentleman could only be realized, it would confer upon him immortality, and would entitle him to the eternal gratitude of mankind. But it somehow unfortunately happens for the gentleman's theory, that the State of Mississippi, which has embraced universal suffrage, has formally repudiated her indebtedness. If the principle of the gentleman has no other merit, it has at least that of perfect originality.

The only question involved in fixing the time for our elections, is one of convenience. We are not now prescribing the qualifications of electors; that point, one of transcendant importance, is not before us in the decision of the present matter. We are only determining at this time the period when the electors shall cast their suffrages, and that question is one of pure convenience. That is all. The only criterion is the convenience then of the voters. Who shall be entitled to the privilege of suffrage, is another and distinct proposition.

I have heard, said Mr. Conrad, a great deal of declamation; I will not say on this floor, about the inestimable privilege of suffrage. Without doubt, it is a great blessing, a great boon; but, sir, it is not the only great blessing. Life, health and liberty are certainly not inferior to it in importance. Without doubt it ought to be justly prized; and if it be justly prized, it will not be extended to those that are unworthy to exercise it—whose very touch would pollute it. It ought not to be extended but upon proper considerations of sound policy; but when once it is extended, it becomes the absolute property of him who has acquired it; and its possession should be implicitly respected; it should no more be interfered with; we have no more control over it than over any other individual possession, over life, liberty or property. It should no more be sacrificed than any of these; on the contrary, every thing should be done to make it valuable, and to facilitate its exercise upon every proper occasion.

The question, then, continued Mr. Conrad, resolves itself into this: which is the most convenient season for the voters generally? which is the most convenient month? Surely there is no one member of this body that will lay his hand upon his heart, and say with sincerity, that it is September.

If I were called upon, said Mr. Conrad, to select one particular month, the most inconveneient in all the calendar of months, I would select September. That it is so excessively inconvenient appears to have been its only recommendation to the committee; and this very inconvenience is assumed as one of the very strongest arguments for its selection, by the gentleman who has defended that selection. It will exclude some of the voters; and, as I have demonstrated, Mr. President, among that class of voters which, under the strictest and most confined system of suffrage, would be entitled to the privilege. The very circumstance of their being absent during that month from the State, is siezed upon to disfranchise them, and that, while the notion is entertained that suffrage ought to be given to every body else. The utmost latitude, and the extremest opinions are to prevail in reference to suffrage, with one only restriction, and that is to effect exclusively a particular class of our citizens; they are to be cheated out of it; it is to be filched from them, if they dare to go beyond the limits of the State, and remain beyond this fatal month of September; they are to be forbid its exercise. Why should they pay so heavy a penalty? The month of September is known as one of the most disagreable, if not the most disagreeable in the whole year. It is excessively warm and unhealthy, and both mind and body suffer from its relaxing influence; it is at this period that one feels least disposed to exertion, It is then that the fevers to which our climate is so unfortunately ex-

posed, appear in their worst and most aggravated form.

The Convention met in this month at Jackson, and what was the consequence? Although that place is one of the healthiest localities in the State, they felt it indispensably necessary to adjourn; they were afraid for their own safety, as well as for the safety of their families, during their absence from their homes at this most inauspicious and critical period of the year. Some of them that voted against the adjournment returned to their homes to find some of the members of their families sick, and in some instances a more serious calamity.

The inconveniences of the month of September were by no means, then, peculiar to the city. It was a period of sickness and death too, in the country; and, as regarded the inconveniences of voters, these inconveniences were greater in the country than in the city. In the city it was nothing to attend a precinct of election, they were so numerous, and so near to every citizen that they might almost be considered at his door. But in the country it was quite different; the nearest precinct of election was frequently at the distance of some miles from the residence of the voter; and to get at the polls, he had to brave the noxious influence of a September sun. It was at this time that his presence, too, was most indispensable upon his plantation. Either some one of his family or some of his slaves were laboring under some sudden attack of fever, or were liable every moment to fall sick with some of the prevalent diseases. It was a notorious fact that our climate, neither in the city nor in the country, was favorable to good health in the fall months. Now and then it became necessary even for an habitual resident to go abroad to recruit his health. But admitting that it was a trip of mere pleasure; why compel any one to forego the pleasure or the wish? Why do this?

Another reason which he (Mr. Conrad) could not find it in himself to condemn, because it was attended with beneficial results, was the practice for candidates for the popular suffrage, to go round and communicate, interchange and express their opinions and sentiments to those whose votes they solicited. If the elections be fixed in September, those visits woul have to be made in the months of July and August, if made at all, and they would impose a dangerous risk. A gentleman who stood deservedly high with one party, and was admired and respected for his talents by the other party, fell a victim to the fatigues of an electioneering campaign, undertaken at about the same season of the year—Mr. Richard Winn, of Rapides, a candidate fer congress. His early and premature death was an irreparable loss to his party and to his friends. Another gentleman who stood deservedly high, and who had once been a candidate for governor, while on an electioneering tour or visit to the Lafourche parish, at the same season of the year, was sun struck and almost lost the use of his eyes. Why should our elections be placed at a season when candidates are precluded from visiting the people, or exposed to a fatal danger if they do?

It is not alone in reference to the city that the inconvenience would be felt. Besides, the residents of every city in the world, are in the habit of frequently quitting them in the summer season. Cities are no where favorable to health. The residents of London, among that class who are affluent, are in the habit of quitting it in the summer, and spending three or four months beyond its dingy atmosphere. So too, with the gay and fashionable Parisans, and even so far north as St. Petersburg, many of the inhabitants retire in the summer beyond its precincts. So, too, in the United States, in the principal cities in the north and south; in New York, as well as in Boston and Charleston; in Mobile, as well as in New Orleans. they retire to some of those verdant shades—some of those flowery prairies, so poetically described by the gentleman from Jefferson (Mr. Preston). That gentleman knows, and I know, said Mr. Conrad, that fixing your elections in September would not materially effect the transient population of the city. It would effect that numerous class of our citizens who seek for relaxation and repose; upon the whole coast, from the gulf to the bay of Pensacola, in the summer months—from the mouth of the Mississippi to Baton Rouge, and from Baton Rouge to the prairies of Attakapas. Why should the elections be held in their absence?—where is the necessity first? Is it to preclude that class of persons to whom the

member from New Orleans has so frequently alluded "as birds of passage?" He (Mr. that effect; those "birds of passage," that flit across our horizon for a season and then are seen no more, even Conrad,) denied that it would have at present, with the numerous evasions of our laws of election, and with the breaches that have been made upon the constitutional restrictions, do not exercise any striking influence at the ballot box, as is perceptible from the mayors' elections, which are held in April. It would not be these that would be excluded by fixing your elections in September. But it would be those worthy citizens who have established themselves among us; who are deeply involved and interested in our destinies; who have built their nests among us, and have made this city their roosting place. Some of their sons and daughters are to be seen in this very room at night, moving through the mazy dance.

These are the citizens whom you disqualify by fixing your elections in September, and that because they do not choose to expose themselves, or some female member of their family to the cruel ordeal of the yellow fever—that political baptism which is the severe test to be ordained as the only proof of their patriotism and their devotion to the State. The gentleman (Mr. Marigny) is a native of Louisiana, and has been exempted by his birth from that baptism; he is therefore, ignorant of its tortures and its suspenses; did he but know them, Mr. President, I am convinced from his well know humanity and benevolence, that he would be the last one to require so awful a proof of good citizenship. It bears a striking resemblance to that religious baptism which prepares one for another and a better world—its fountains are diseased; its ministering priest is the physician; and death but too often the sponsor!

When we are young, and have no families dependent upon us for their daily bread, we can recklessly encounter dangers, even for what is less valuable than the right of suffrage. But when we are invested with the responsibilities of providing for the wants of those to whom we are bound by the most solemn and sacred ties, our lives become precious indeed; it is then we desire life and are least disposed unnecessarily to peril it.

His colleague, (Mr. Marigny) in examining the evils that would result from a general system of universal suffrage—unlimited and unrestrained—had directed his exclusive attention to a few citizens, whose influence in our elections, in no event, would be pernicious, and entirely overlooked a numerous class of persons, who offered no guarantees whatever, for a proper and becoming exercise of the elective franchise. As a matter of right, of justice, I insist (said Mr. Conrad) that nothing shall be done to exclude, or to render inconvenient, the exercises of the right of suffrage to those that are entitled, and who have for a series of years exercised that privilege. But while I say this much, and am willing to extend within proper limits the elective franchise, I can by no means participate in the opinion of the delegate from Jefferson, (Mr. Preston) that we would be justified, or that it would be good policy to grant it to every body—Tom, Dick and Harry, that may have set their feet upon our shores within the last twenty-four hours: to the offscourings of the earth. I make a distinction between that class of persons and those that would alone be excluded were the proposition of my colleague (Mr. Marigny) to prevail. If that proposition prevails, and we send out the new constitution with it, we shall inflict a mortal stab upon our offspring. We shall send it out with the seeds of internal disease, and it must come to a premature end. If the American people have one sentiment that is peculiar to them, it is their abhorence of injustice. I care not from what quarter it may come. If in an instrument professedly designed to extend the right of suffrage, there should be so gross an attempt to restrict it and to preclude it, you may depend upon it, Mr. President, the people will not submit to it. Their voice may be feeble at first, but it will not be long before there will be one general burst of indignation. It will not be long before they will be heard knocking at the doors of your legislative halls and demanding another Convention. The new constitution cannot stand with any such principle in it.

I have done! If I have not convinced others, I have at least made known to my constituents my opinion, and I am ready to abide their judgments.

Mr. Downs said that if he had not designed to address the Convention, and to unfold his particular views upon the proposition before the Convention, the attempt made by the delegate from New Orleans, (Mr. Conrad) to make him, with the other members of the Convention, not only responsible for the particular period recommended in the report, but for the arguments assumed by the member (Mr. Marigny) to sustain the proposition in its favor, would constrain him to offer a few words of explanation.

[Mr. Conrad said that he had had only inferred that the report embraced the current opinion of the majority of the committee.]

Mr. Downs: the gentleman even in that is mistaken. I, for one, differed with the majority of the committee, upon that particular point. It was agreed to make the report to the Convention, with the understanding that those who differed in opinion on any matter therein, should, if they chose, sustain their objections before the Convention. I regret, said Mr. Downs, that the gentleman should have fallen into this mistake, inasmuch as a similar charge was made at a period very interesting to that gentleman and his political associates, and it was as flatly denied by me in the Jeffersonian.

[Mr. Conrad: that is the very first time I have heard any thing of the matter. I do not receive the Jeffersonian.]

Mr. Downs: after the elaborate and very able arguments that have been made against the proposition, I find myself dispensed from saying much. What little I have to say shall be stated briefly.

I concur with many of the propositions of the gentleman that last addressed the Convention, as to the injustice of excluding any class of citizens who are entitled to the privilege of suffrage; but at the same time, candor compels me to say, that what fell from the gentleman in regard to the extension of suffrage, was not to my mind satisfactory. I am apprehensive of his checks and his balances. I am fearful that they mean more than might at first strike the eye. They may be convenient phrases to cover a very restricted system. I was much better pleased with what fell fron another gentleman (Mr. Roselius) on the same subject, and was glad to hear him assert that he was in favor of suffrage in its most liberal and extended form.

The gentleman (Mr. Conrad) in taking up a system for examination, would do better to consult the principles of that reform as sustained by those that advocated it than to imagine them for himself. This was a very unfair way of meeting and resisting it. As for the extension of suffrage, nothing unreasonable or dangerous was desired—at least, as one favorable to that policy, I desire nothing of the kind.

It is with regret, said Mr. Downs, that I find myself under the necessity of differing with some of my valued political friends, upon the point under discussion; I have listened with profound attention to all that has been said. The subject is, however, not new to me. I have reflected deeply—I have pondered upon it calmly and dispassionately, and the convictions upon my mind are irresistable. It is painful for me to differ with those with whom it has heretofore been my pride and pleasure to act. I deeply deplore it. But I would say to all those whose minds are not irrevocably made up, to pause and reflect. At the first blush, it may appear judicious to place the elections at a season of the year when it is presumable that most of the transient population are abroad. This ground, however, cannot be sustained—it is untenable, as mature reflection will show.

The delegate from New Orleans, (Mr. Conrad) takes it for granted that if suffrage be extended, it will be conceded to foreigners and strangers. This may be the idea of that gentleman in relation to the extension of suffrage; but it is not mine, nor is it the opinion of those that act with me. When this question shall properly arise, I am, said Mr. Downs, prepared to meet and to sustain all that I may have ever advanced in relation to it.

Mr. President, said Mr. Downs, this is no new question to me.

[The President said it was not in order to extend the discussion by entering into an argument upon the extension of suffrage.]

Mr. Downs said it was very natural for one to be discussive in treating upon any one of the articles of the constitution, for there was a certain connection between some of these articles and others. It was true, the extension of the right of suffrage

was not involved in the fate of the present proposition, but it had nevertheless been incidentally introduced and discanted upon very largely, during the progress of the debate.

The question when shall our elections be held, was connected with considerations of political power. His attention had been long and earnestly excited to the subject, and with this very question of the dreaded ascendancy of the city over the country, by an extension of suffrage, had he entered into public life. He was indifferent to any sectional feelings on the subject. The first question with him, was as to the principles that being good, he was not to be led astray by extraneous considerations.

In 1838, the first time he (Mr. Downs) was a candidate before the people, the contest happened to be conducted in reference to this very question of the aggrandizement of the political power of New Orleans, by the extension of suffrage. That contest was a most exciting struggle, the most exciting that he has since then passed through. A bill had been introduced into the legislature, to extend the right of suffrage by imposing a poll tax. His opponent resisted the passage in the legislature, and voted against it on the ground that it would increase the influence of the city, and thereby prove dangerous to the country. He (Mr. Downs) replied to that argument, and announced distinctly that if the principle was right in itself, it could not be affected by any such local considerations. The question was thoroughly examined, and the tickets of each candidate were headed by the principles they proclaimed. The question was then presented to him, and he decided it. He has since reflected upon that decision, and has seen no good grounds to doubt its accuracy.

He disclaimed being actuated by any local feeling of partiality towards New Orleans. That great city stood in too imposing an attitude to be placed in an inimical position, to the balance of the State, because she might possess the preponderating influence. He considered New Orleans the city of the State, and as much his city, (although he did not reside within her borders, and probably never would,) as if he were an actual resident. She was not only the city of Louisiana—but the city of the great west—the city of half an empire, destined to hold more than half the population of the United States.

He assuredly did not think it good policy to engender feelings of dislike and jealousy between New Orleans and the country. They were both essential to each other, and the laws made for both should be uniform, as far as possible. It happened, however, that large commercial cities sometimes required a different kind of legislation; it was only when this was indispensable, that he could sanction any distinction between the city and the country.

He earnestly entreated his friends before committing themselves to a final vote, to examine and to ponder well all the arguments upon the question. The right of suffrage was a most important privilege, and nothing should be done to impair it. According to the maxim "the truth was powerful and would prevail," he wished to see the principle of suffrage carried out in its purity, free from all cliques and all undue influence. Any other free suffrage was not his free suffrage. He wished every free white male citizen of the United States to have a voice at the ballot box. He could not vote, therefore, for any restrictions—direct or indirect—which would deprive the qualified voter of his right. He was for that reason opposed to fixing the election in September, inasmuch as it would operate against many citizens that choose to be absent. He characterized September as the most dangerous month in the whole year, and it was sufficient for him to be aware of the fact, to select some more appropriate period. He was not for the "yellow fever qualification," as one of the city papers had aptly termed the effort to place our elections in that season of pestilence!

The object of an election (said Mr. Downs) is to bring out the popular will, and the nearer we can approach to a full expression of that will, the more perfect the system.

As has been justly observed during the discussion, the month of September was as objectionable to the country for holding the election, as it was to the city. It was essential to the comfort of the citizens that there should be some period of rest—some period of general repose. Even the steam engine that is in full operation to go to St. Louis, must pause and have a rest. It

would be a strange anomaly if man alone was to be denied the sweets of repose from his exciting pursuits. The summer was our period of rest. It was the siesta—the Sabbath of the State.

These were some of the considerations, hastily urged, that would induce him to vote in favor of the motion to strike out the month of September. We should impose no hardships upon our citizens; we should not deny them the privilege of going abroad whenever they were disposed, and least of all, we should not make the important and inestimable privilege of suffrage, the penalty. He would never consent to debar them that privilege, and he could not, therefore, vote for the proposition.

Mr. Peets desired saying a few words before giving his vote. He should vote against the proposition to strike out "September," but his reasons for doing so were somewhat different from those that had been urged. He was not governed as a member of that committee by any party feelings. He totally repudiated and disclaimed all such motives. His solicitude was to ascertain what would be for the benefit of the whole State, and when he was satisfied upon that point, he would vote accordingly.

The true principle, in his mind, was that the time for holing the general elections, should be at the most convenient period for the mass of the voters; their convenience ought to be consulted and respected.

He did not entertain any very great apprehensions of the influence of the city. She gave at present six thousand votes, and the balance of the State could poll about twenty-one thousand. Admitting that by the extension of suffrage, her vote would be increased one-third more, that did not present any very alarming disproportion.

The great proportion of the population of Louisiana was agricultural, and their interests and convenience, forming as they did the mass, ought surely to be taken into account. It might happen that by bringing the elections on in September, some of the citizens of New Orleans might suffer some inconvenience, but they were only a fraction of the population. It was certain, that if you brought on the elections early in the fall, it would be inconvenient for the planters to attend, if it were possible for them to do so, by reason of the inundation of most of the streams. Mr. Peets instanced, that with last election, the voters in the section of country he had the honor to represent, were compelled to float on logs to get to the polls. That period of the year was quite unsuited, particularly as regarded the country on the Red river and the Ouachita, it being for the most part inundated.

Mr. Miles Taylor said he was a member of the committee that made the report, recommending the month of September. He did not believe that in the committee, he had concurred in the report by voting for it; in fact, he had been unable to participate much in its labors, on account of his bad health. If he were, however, mistaken in his recollection, and if he had voted for the report, he did not feel bound to vote for it here, if the arguments he had heard had changed his opinion. From all that had been urged, it seemed to him important to ascertain first, what were the qualifications of the persons to be admitted as voters. He wished that point to be defined, and when it should be settled, we would encounter no difficulties in fixing the period for the exercise of the elective franchise.

In conformity with these views, Mr. Taylor moved to lay the motion of the delegate from Concordia (Mr. Sellers) on the table, as well as the article of the constitution, until the article defining the qualifications of voters was adopted.

Mr. Sellers thought the present question had no bearing with the question of suffrage. They were distinct; the only matter under consideration has been discussed, and let it be decided by a vote.

Mr. Miles Taylor thought it the best course to lay the motion and the article on the table until the question of suffrage was decided.

The question was taken on Mr. Taylor's motion, and it was lost.

The question then recurred on Mr. Sellers' motion, to strike out September and leave the month in blank, and was decided by yeas and nays as follows:

Messrs. Aubert, Benjamin, Boudousquie, Brent, Briant, Burton, Cenas, Chambliss, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia,

Garrett, Guion, Hudspeth, Humble, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mayo, Mazureau, Penn, Prescott of Avoyelles, Prescott of St. Landry, Preston, Pugh, Ratliff, Roman, Roselius, St. Amand, Saunders, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder—48 yeas; and

Messrs. Beatty, Bourg, Brazeale, Brumfield, Cade, Carriere, Covillion, Leonard, McCallop, McRae, Marigny, Peets, Porche, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Voorhies, Waddill and Wederstrandt—20 nays.

Mr. WINDER moved to fill the blank by inserting "June."

Mr. GUION advocated the adoption of June, as being the most convenient. The principle had frequently been acknowledged during the discussion of what was the proper time for holding the elections, that the convenience of the voters should be consulted. It would suit both the sugar planting interest and the cotton planting interest, to place the elections in June. He was in favor of fixing them for the first Monday of June.

Mr. SELLERS said the object of the delegate from Lafourche (Mr. Guion) and his own were identical, they differed only as to the means. He considered November infinitely preferable to June for the accommodation of the people and the reception of votes. June was a healthy month and so was November, but he thought November preferable.

The yeas and nays were called for on Mr. Winder's motion to fill the blank with June; the following was the result:

Messrs. Aubert, Benjamin, Bourg, Boudousquié, Briant, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, St. Amand Saunders, Voorhies, Winchester and Winder—29 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cenas, Chambliss, Covillion, Downs, Eustis, Garcia, Garrett, Humble, Leonard, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Jefferson, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wadsworth and Wederstrandt—40 nays.

Mr. MCRAE proposed to fill the blank with October.

Mr. ROSELIUS said that the same motives that induced the Convention to reject September would induce them to reject October. All the reasons that applied to the one, applied with equal force to the other.

The yeas and nays were called on Mr. McRae's motion.

Messrs. Beatty, Brazeale, Brent, Brumfield, Cade, Carriere, Chambliss, Covillion, Downs, Humble, Leonard, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porche, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Voorhies and Wederstrandt—26 yeas.

Messrs. Aubert, Benjamin, Boudousquié, Bourg, Briant, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mazureau, Preston, Pugh, Roman, Roselius, Ratliff, Saunders, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wadsworth, Winchester and Winder—41 nays; the motion was consequently lost.

Mr. BURTON thereupon moved to insert the month of November, and called for the ayes and naps:

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Leonard, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Voorhies, Waddill Wederstrandt and Winder—33 yeas.

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Lewis, Mazureau, Ratliff, Roman, Roselius, St. Amand, Splane, Trist Wadsworth and Winchester—34 nays; so the motion was lost.

Mr. BURTON proposed the second Monday in November.

Mr. EUSTIS said it was always with diffidence he addressed the Convention, and offered his views upon subjects with which he presumed others were much more familiar. It was with great deference he differed in opinion from those gentlemen that addressed the Convention in support of the several periods deemed by them most suitable for holding the general elections throughout the State.

It had been remarked by a member, and the remark appeared to meet with general concurrence, that it was exceedingly unwise to make any change in the old constitution, unless the changes could be for the better. He had listened with earnest attention and great pleasure to what fell from the gentlemen in discussing the proper period for holding the elections, but he had heard nothing that satisfied him that the period fixed by the old constitution ought to be changed. That period has been established for thirty years, and the very diversity that exists in relation to any other, would seem unerringly to indicate to us the propriety and expediency of maintaining it.

The gentleman from Ouachita, (Mr. Downs) it is true, has told us of the high waters that prevail at that particular season of the year in the district represented by him, and has complained of the great difficulty experienced by the people there to get to the polls. This is the only reason given why the period fixed in the old constitution should be changed. Admitting it to exist, the question occurs is it sufficient to induce us to appoint another time? In July, it happens that the waters are occasionally high: they are sometimes high, but generally they are low. Taking it for granted, however, that in the district of Ouachita they are always high in July, and that it is some inconvenience to the voters to get to the polls if the elections take place then, would we be justified in order to accommodate the people of one district —of one portion of the State—to change the time to another period that would be inconvenient to the balance of the State?

We have heard (said Mr. Eustis) many eulogiums pronounced upon the old constitution. He did not agree in the extravagant praises that have been lavished upon it. He did not believe that it deserved them, and if he were to say he did believe it he would not speak the truth. It had been said that it was a good constitution. He never believed it was a good constitution.

The proper guards for the amendments or alterations we should make to the constitution, are the defects or imperfections that experience have pointed out. Do the interests or convenience of those that sent us here require a particular change? Apply this test to determine whether it be expedient.

The appointment of the particular time to hold the elections is a high political question. It is a most important question of political power. Some gentlemen contended that the elections ought to be fixed in the month of September. This proposition had but few advocates, and could not be sustained upon reasons of sound public policy. He (Mr. Eustis) disdained all other considerations. To fix it at that time, would be to deny to a class of our citizens the privilege of suffrage, and it would be debarring them the exercise of political power. It would be despoiling them of a right, which was as much their property, and should be held as inviolable as their possessions. To refuse it to them, and yet extend the right of suffrage, would be a gross and palpable inconsistency.

The arguments which should preclude the Selection of September, apply with equal force to October, and have so fully been explained in the debate, that it is unnecessary to repeat them.

The time when the elections should be held, is nothing more nor less than a question of political power. Before that issue all other considerations sink into insignificance.

In 1812, when the constitution was formed, the same question of political power existed as in 1845. The period chosen has been consecrated by the experience of thirty-two years, and has been unattended with inconvenience. We have seen what has been the fate of the propositions appointing other periods; and he, Mr. Eustis, would submit it to the judgment of the Convention, to those members particularly who have expressed so much veneration and attachment for the old constitution—a sentiment in which, by the way, he did not par-

ticipate, inasmuch as he believed society would have made more rapid advances, and the general prosperity of the State would have been greatly accelerated without it, to exhibit a little of that feeling of attachment never exhibited on this occasion; and since they could not better, to respect a provision that had stood the test of thirty-two years.

Mr. Ratliff said he sincerely concurred in what fell from the gentleman from New Orleans (Mr. Eurtis). We have heard no complaints against the period fixed by the constitution for holding the elections. It was better, then, to leave it untouched. He entertained a high veneration for the constitution; some portions he considered very defective, and those he should like to see changed; but in other respects he was for leaving the constitution as it was. If, however, a change was to be made, and some other period was to be substituted for July, he was decidedly of opinion that April ought to be selected. It was a healthy season of the year, and the water was low. Within his recollection the Mississippi had only once broken over its banks in April. His only object was to obtain the largest possible vote; he thought April favorable to that purpose, particularly with the establishment of convenient precincts of election. If the period were to be changed, he considered the first Monday in April as the most desirable time for all sections of the State; but he was very willing to leave the constitution untouched in that particular respect.

Mr. Guion concurred with the delegate from Felician (Mr. Ratliff) as to the month of April being a convenient period for holding the elections. He was opposed to the proposition of the gentleman, (Mr. Burton) because it would bring our State elections on at the same time every fourth year with the presidential election. This was with him a very serious objection. The qualifications of candidates for State offices would be forgotten and swallowed up by the all-exciting consideration of who should be President. This would be a great calamity, and would deprive the State of the services of the best and most useful citizens, who otherwise would be elected without an unfortunate reference to party politics and party excitements.

Mr. Beatty said he concurred with the gentleman from New Orleans, (Mr. Eustis) in considering the present question as a question of political power. It is a question as to who shall enjoy the sovereignty of the State of Louisiana. Shall it be confined to those who only are interested in the welfare of the State, or be left open to those who have no real interests, and who, if they have an interest, have another and a predominating interest elsewhere? To persons who have no identity with the State, and in fact, form no real portion of the community. He referred to the disparity in the number of votes given at the last election between the second municipality and the first and third municipalities, taken in aggregate. The second municipality had given more votes than the other two put together. That was a result quite unanticipated, and was a source of great astonishment. Were we to believe that illegal votes were cast? It was certainly the general impression that there were more voters in the first and third municipalities than in the second. How were we to account for this remarkable result? Were we to suppose that all the voter in the first and third municipalities did not vote? The occasion was one to secure a full vote. Either we were compelled to adopt the hypothesis, that all the voters did not vote, or believe that the second municipality gave a greater number of votes than the other two, a conclusion that was not established by the census, and which we were not prepared for. If neither of these conclusions were true, then it was to be inferred that illegal votes had been cast.

Mr. Beatty expressed himself in favor of retaining the section in the constitution as it was. He considered that under the section it was designed that the elections should be closed in one day. They had been extended to three days. He considered that extension unconstitutional. But so as to make the provision more positive, inasmuch as it had been interpreted differently, he was willing to insert an express clause to that effect.

The month of July was usually healthy, and fixing the elections then, could not preclude any one from the privilege of suffrage. Few persons were in the habit of absenting themselves so early, and if they were disposed to do so, as the elections came on but once in two years, if they

valued the privilege as they should, they would willingly forego their design for a few days, until the elections were held. If they were not disposed to do this, they were unworthy of the privilege, and the exercise of it could not be to them a matter of any serious consideration.

Mr. Beatty concluded by moving the first Monday of July.

A motion was made for adjournment, and the yeas and nays were called upon said motion. It was negatived—ayes 25, nays 43.

Mr. Claiborne rose to a point of order, that no motion could be entertained for fixing a particular day in a particular month. The motion should be restricted to the month, inasmuch as the month alone had been stricken out of the report of the committee—the particular time was still in the provision—September alone was stricken out.

The Chair sustained the point of order.

Mr. Garrett moved that the blank be filled with the fourth Monday in November.

The Chair decided that this motion was not in order.

Mr. Garrett expressed an intention to appeal from the decision of the chair.

When, on motion, the Convention adjourned until to-morrow, at 11 o'clock, a. m.

Saturday, January 18, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer.

Mr. Garrett stated, that he would not appeal from the decision of the chair, upon his motion which was decided to be out of order, to fill the blank with "the fourth Monday of November."

Mr. Boudousquie hoped the question would be taken on Mr. Eustis' motion to fill the blank with July. He considered that motion to be first in order.

Mr. Splane moved to reconsider the proposition of the member from St. Helena, Mr. Burton.

Mr. Grymes said, in accordance with the rule that required a certain notice to be given, he would notify the house of his intention to introduce a proposition in relation to this vexed question.

He did not consider it a part of his mandate, to struggle for this particular day, month, or year. Nor did he think it material, that one particular period should carry over another, inasmuch as that, as well as the whole article, could at any time be brought to the consideration of the Convention. To vote upon the proposition now was merely *pro forma*, as every article and section were subject to revision until the constitution was signed. All these squabblings about one particular period in preference to another was, to his conception, but small game. His purpose was not to propose any particular day. He was as willing that the Convention should determine upon November, as any other time. He did not consider it as irrevocable. But in order to put an end to this contest, he would inform the Convention, that he designed presenting a proposition—let whatever time be fixed upon—to strike it out and leave it to the legislature to select such time as they may think most fitting. If the Convention were so disposed, they could at once proceed to the consideration of his proposition, and if it was carried, the matter would be put to rest. In his judgment, it would be more appropriate to leave the decision of this question to the legislature.

Mr. Boudousquie moved that the Convention proceed to the order of the day, being the unfinished business under consideration when the Convention adjourned yesterday.

The President decided that the motion to reconsider was first in order.

The question was taken on Mr. Splane's motion to reconsider the vote on the proposition for November, and the motion to reconsider was carried in the affirmative.

The President announced, that he had appointed on the committee of revision, Messrs. Eustis, Roman, Miles Taylor, Brent and Mazureau.

Mr. Penn moved that the Convention proceed to consider the vote taken upon November.

The President decided that the unfinished business had the precedence, which was the motion of Mr. Eustis to fill the blank with July.

Mr. Penn appealed from the decision of the chair.

The question was taken and the decision of the chair was maintained.

Mr. Ratliff said he had a few remarks

to make, and his object in making them was less to occupy the time of the Convention than to define his own position. He had the misfortune to differ with some of his friends, and he wished to set himself right as to the grounds he assumed, and the points of difference between them and him.

To his conception the members of this body were delegated to make a constitution, to define who were citizens, and what privilege they would enjoy. When these privileges were defined, they were entitled to all the benefits of them. This was the position he occupied, and this was his guide of action.

In carrying out this fundamental and essential point, we must resolve the question which is the time most convenient and most advantageous to all. Which is the period that will enable the greatest number of votes to be cast; that will bring to the ballot box the greater number of citizens.

We should first establish in the constitution what is essential to entitle one to become a citizen. To acquire the immunities and rights of citizenship—to become one of us. And then determine upon the essential principle, that all shall enjoy equal privileges and equal rights in the exercise of the inestimable privilege of suffrage, as well as in the enjoyment of all other rights appertaining to citizenship. No one should be put to inconvenience further than the nature and circumstances of things should require, and the same uniform and general rule should apply as well to the inhabitants upon the inundated lands of Red River, as to those in the swamps of Catahoula. The citizens of New Orleans, of Rapides, of Baton Rouge, should be placed upon a proper equality as regarded the facilities for exercising their rights of suffrage.

Let us suppose that all the citizens of the State were congregated here in person for the purpose of choosing that period which was most eligible to them for the exercise of suffrage. What time would they select? Would they choose an inconvenient period, when the voices of the mass would not be heard—when it might be stifled and unworthy and unfaithful agents might be foisted upon them by bribery and corruption? Or would they select an eligible time, when the voice of every citizen, high or low, rich or poor, might be heard. Let their will dictate to us our duty. We are sent here to express and to carry into force that will, and if we fail to do so, we are recreant to our sacred trust—we are recreant to all our pledges.

This, Mr. President, continued Mr. Ratliff, is the pure democratic doctrine. It is true democracy. I do not allude to party democracy, but to the sacred principles of democracy, independent of party; and when a whig comes up to that standard, which they do sometimes, I am ready to go heart and hand with him. What democrat will gainsay this doctrine? What democrat will say that the public servant should not be brought to the scale and his principles weighed? If I cannot get that principle not only recognized, but adopted, which secures the expression of the whole voice of the people, then, Mr. President, I shall remain in a minority. No local feelings shall ever actuate me. I do not say they have any place on this floor. I trust, and hope in God they have none! When the people thought fit to choose me to the proud station of representing them on this floor, I was no candidate, Mr. President; I did not go about electioneering. I was represented as a red hot locofoco, but my constituents knew that I could raise my voice above all party considerations whenever principles were endangered—that I preferred, whenever there was a conflict, principle to party. That all personal, all political considerations should, to my humble judgment, give way to the necessity of framing a good constitution—a constitution of which we never should be ashamed—one that would stand the test of time—that it would reflect the will and wishes of the people, and would carry out those essential and fundamental principles indispensable to their safety, happiness and prosperity. I determined, Mr. President, if I could do no good, to do no harm, and never give occasion to myself for bitter self-reproach. In saying that much, I considered I said a great deal.

These, then, are the broad principles I would lay down, and by them I would determine the most eligible period. First, as to September; that month has been urged upon us, but it has been conclusively shown that there are inseparable objections to it. It is a period of sickness and death;

of absence from the State of many valuable citizens. For these, and other powerful reasons that have been advanced, it would be an unfortunate and partial selection. To October the same arguments apply as to September; it, too, is a period of sickness and of absence. If we select November, there are likewise to it many valid objections, the principal one of which is all powerful—that in every fourth year our State elections would occur about the same period with the presidential election, and that our local affairs and interests would be swallowed up by the all absorbing consideration of who should be president; and party politics would be stimulated constantly among us by the results of the elections in some of the great States of the north and west, whose elections would precede our own. These, Mr. President, are weighty apprehensions to my mind. Then as to July. It is objected to this month that the weather is extremely hot, and that one gentleman lost his life in undertaking an electioneering campaign during that season of the year, and another was seriously endangered, and that these dangers would preclude candidates from interchanging sentiments with the people, unless in their anxiety to be elected, they choose to eucounter the imminent peril of their lives. We are told too, again, that the people on Red River and Ouachita, owing to the high stage of the waters, were under the necessity of remaining at home at the last election, or of going to the polls upon logs. This surely is a serious inconvenience, and is extremely hard, that a voter cannot exercise the privilege of suffrage without embarking on a log, or upon a raft, or paddling his own canoe.

The facilities of voting certainly ought to be as great as can be devised; precincts of elections ought to be multiplied, and the people should in every way be encouraged to express their views upon men and measures. Men and principles should constantly be kept to the test of public opinion. In this way, Mr. President, you make the people independent of demagogues; you secure an enlightened, a pure system,—a republican system—be it whig or democrat.

I listened said Mr. Ratliff, with profound attention to the eloquent remarks of the gentleman from Jefferson; to the able arguments of the gentleman from New Orleans and of the gentleman from Ouachita. It is with great diffidence I enter the lists with such giants, that I attempt to re-echo the reverberation of their cannon. Delicacy and a conscientiousness of the feebleness of my powers, would deter me from saying any thing after the able discussions we have heard. I was under the conviction that I had a duty to perform ; that I am bound to express with the limited powers I possess, the wishes of my constituents, and to express their sentiments. I will not be recreant to that responsibility; I shall never shrink from a faithful and bold discharge of the duties I have assumed. I will not be a silent and inactive member; and if I could not stand up in defence of the rights of the people, I would resign, and go home to those that sent me here.

If I were called upon to select a proper time for holding your elections, Mr. President, with my hand on my heart, and in all sincerity of conscious rectitude, I would pronounce in favor of the month of April; and I do think, sir, if the present constitutional period should be changed, no period so eligible could be found in the whole calendar of months. One objection against maintaining that time has been referred to in the eloquent remarks of the gentleman from Caddo, that the voters in that portion of the State were obliged to go on rafts and canoes, or forego the most noble privilege of freemen.

Mr. Ratliff said he had reached the grand climacteric in years, when it was not very convenient to tell one's age. He was born in Louisiana, and he had some experience of the high waters which prevailed. In all his experience he knew of but one overflow in the month of April. In that month the weather is fine, and the roads are good. But, it is said, that this season is too busy a period for the planter to absent himself. He denied the assertion. and he had some knowledge that the contrary was the fact. If he ever acquired a reputation for any thing, it was for being a tolerable good overseer. No good farmer or planter would be in a position not to repair to the polls, to exercise the privilege of a freeman, from the second to the third Monday in April, or even earlier. But he considered that the most convenient time. April was one of the healthiest months in

the year, and with the democratic principle of the extension of suffrage, facilitated by the establishment of convenient precincts of election, would be the most desirable for the people at large. And if the period for electing members to Congress be placed in April, another advantage would result. The representatives would be elected and delegated fresh from the people, and not, as it is now unfortunately the case, be elected one year in advance.

Mr. Ratliff contended that it was not in reference to the affluent that the period of elections should be fixed. To the rich man, to the man who owned one hundred, fifty, or even five negroes, there was no difficulty for him to get to the polls. He could leave when he pleased, and even charter a steamboat to transport him. Not so with the poor man; with the industrious hard-working farmer, the honest mechanic who was assiduously shoving his jack-plane. They could not leave at all times, and all periods were not convenient with them. And yet the poor man had equally his interests to protect in legislation, and his privilege of suffrage was just as valuable, and his interests ought to be equally consulted. In the spring he could vote without any great inconvenience—he could go to the polls without alarming apprehensions for his family; but in the fall it was quite otherwise. It was the convenience of the yeomanry, the honest yeomanry of the country, we should consult. It would be inconvenient for the poor man to go to the polls in the fall; he might have a sick family; would be stopped. The partner of his bosom or one of his children might be taken sick, and as he was just going to start for the purpose of fulfilling the inestimable right of suffrage, he would be arrested by the intelligence that little Ben was sick of the chills and fever.

I am, said Mr. Ratliff, a practical man. I take a common sense view of things, with the intellect God has given me, and he has given me his share—I mean, Mr. President, my share.

Mr. Ratliff concluded by stating that he was opposed to the fall months. They were sickly as well in the city as in the country. It was at that season of the year of that dreadful pestilence which was more fatal than the yellow fever—he alluded to the congestive fever—prevailed. He was decidedly in favor of choosing April for our elections, otherwise, if that period did not carry, he was for continuing July, which was consecrated to us by the old constitution.

Mr. Sellers craved the indulgence of the Convention for trespassing upon their patience, or rather he might say, their impatience. The district which he had the honor to represent, in part, on this floor, was deeply interested in the determination of the present question. It was true, we were not defining in so many words, directly, who should exercise the right of suffrage, but we were doing so in point of fact. In his district there were a number of citizens—of persons entitled to and exercising the right of suffrage, who absented themselves in the month of July, and who, if the elections were fixed for that period, would be debarred the privilege of suffrage. It was not material to enter into an examination of their motives for quitting the State at that particular season of the year; whether it was for pleasure, business, or apprehension of the epidemics that prevailed in the fall months, not to attempt to determine how far it was prejudicial to the interests of the State. True it was, they come under the denomination of "birds of passage." At least that expression was applied to them; but, whether deserved or not, one thing was certain, they had paramount interests in the State—having all their property involved, they were deeply interested in it by being the possessors of property which was useless except attached to the soil.

He could not believe it was sincerely contemplated to exclude them, and yet to fix the elections in July would not only have that effect, but likewise it would throw many obstacles in the way of that population, in his district, that never left the State. The stage of water that usually prevails at that time of the year, was so high, as to inundate the country, and preclude the possibility, without great difficulty, of getting to the polls. The result of the inconvenience of holding the elections in July were exhibited in the fact, that in his district nine hundred votes had been cast in the elections of that month, when in the succeeding month of November, fourteen to fifteen hundred votes were cast. The consequence, it was plain to see, was this;

that if the month of July be mentioned, many of the legal voters actually resident, all the time, would continue to be excluded, not to mention the numerous class of voters that leave the State and return from the beginning to the end of November.

These, and a good many other reasons that he might adduce, but which he abstained from stating at this time—deeming what he had said to be sufficient, would induce him to vote against the month of July. The policy, it seems, had been recognized, that the time to be fixed should be the most convenient to all the citizens, and this being settled, as well as the design to extend the right of suffrage, he could not conceive that it was the intention of any one to throw shackles around the exercise of that privilege, and to prevent its exercise. Believing that the selection of July, as proved by experience, could exercise that tendency, he should vote against that month.

Mr. Guion said he would prefer a month in the spring. But failing in that, his second choice was to adhere to July.

He proposed the first Monday in May.

Mr. Chinn said that to him personally, it was a matter of no consequence what particular time was selected. But after listening to the various suggestions, he was inclined to think that the latter part of April or the beginning of May, was the most opportune period. If it be designed by the Convention to secure the fullest expression of the public will, then it must be conceded that this result will be more likely to be attained by fixing the elections in the spring, than at any other period of the year.

Mr. Mayo sustained the first Monday of November. It was the most eligible period in the year, and most convenient to all. In the spring months the planters were busy. The roads were good in the month of November, and, in almost all respects, that period was the most convenient. He should reserve his vote until the question was put on the first Monday in November.

Mr. Splane declared his preference for November.

Mr. Culbertson would inquire of the mover in favor of November, if he would consent, if November were carried, to place the day in that month towards the middle or towards the close, and would not insist on the first Monday? If that was the intention of the gentleman (Mr. Splane) he would vote in favor of filling up the blank with November.

Mr. Splane: any day in November, I am willing to accede to.

The question was taken on filling the blank with November, and the yeas and nays were called for.

Mr. Claiborne said he would vote affirmatively, but he was in favor of a later period than November.

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cenas, Chambliss, Chinn, Claiborne, Covillion, Culbertson, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Waddill, Voorhies, Wederstrandt and Winder—48 yeas; and

Messrs. Boudousquie, Bourg, Briant, Conrad of Orleans, Conrad of Jefferson, Derbes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Mazureau, Ratliff, Roman, Ledoux and Trist—17 nays.

Mr. Benjamin did not rise to debate the question. He was aware that the house were already exhausted. He had some facts in hand which would go to show, that if the period were fixed in November, it ought not to be before the latter part of the month; otherwise a large number of voters would be excluded from the polls, which, from the vote that took place on another occasion, he judged was not the intention of the Convention.

Mr. Benjamin then read a list exhibiting for the last ten years, the duration of the yellow fever at its periodical visitations. It seldom happened that the disease was entirely extinct before the close of the month of November, or the beginning of December.

Mr. Kenner moved the fourth Monday of November, and called for the yeas and nays. Yeas 32, nays 35.

Mr. Claiborne moved for the third Monday in November.

Mr. Waddill asked for a division of the question.

Mr. Claiborne contended that the question was not susceptible of division.

Here a discussion arose upon the question of order, in which Messrs. Claiborne, Ratliff and C. M. Conrad participated.

The PRESIDENT decided that the question could be advocated.

The yeas and nays were called for upon the motion to strike out the "first Monday."

Mr. WEDERSTRANDT sustained the first Monday in November, as the most eligible period for holding the elections.

The result was 28 yeas, 39 nays.

So the house refused to strike out the first Monday.

Mr. PENN moved for the adoption of the section as amended.

Mr. CULBERTSON gave notice, that having voted with the majority for November, he would move for a reconsideration on Monday.

Mr. MAYO moved to fill up the second blank by inserting "1845."

Mr. BEATTY moved that said paragraph be laid on the table subject to the call of the Convention.

Mr. DUNN gave notice that he would move for a reconsideration of his vote on November and July, on Monday next.

Whereupon, the Convention adjourned to Monday next, at 11 o'clock, a. m.

MONDAY, January 20, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. PRESTON.

Mr. VOORHIES presented a memorial from a respectable citizen of Attakapas, suggesting amendments to the constitution.

Mr. MARIGNY moved that said memorial be laid on the table.

Mr. VOORHIES hoped that the memorial would be read.

The Secretary proceeded to read said memorial, and had read some portion of it, when

Mr. SAUNDERS moved to lay it on the table, subject to the inspection of the members.

Mr. VOORHIES said he hoped the motion of the member (Mr. Saunders) would not prevail, and that the reading would go on.

Mr. KENNER said that if this document were allowed to consume the time of the Convention by being read, it would establish a bad precedent. The Convention would be obliged to ilsten to similar communications, of immeasurable length, whenever they were presented. It had assembled for the purpose of amending the constitution, and it was the privilege of its members to suggest such amendments as they deemed necessary. It was encroaching upon this privilege to anticipate the suggestion of the members, and to ask the action of the Convention upon peculiar views of particular individuals.

He would therefore move to refer the communication to the parochial and district delegation that represented the section of the State in which the memorialist resided.

The PRESIDENT said that the reading of the paper had been called for, and that call had been seconded. It was for the Convention to decide whether the reading should go on.

Mr. CULBERTSON would inquire if the majority could control the reading of the paper? Was there any rule to that affect? He had heard nothing uncourteous or improper in the paper.

The PRESIDENT said that there was an implied right that all such papers should be read. But if the Convention did not think they were relavant, the reading could be dispensed, and they could be disposed of as the Convention might think fit.

Mr. TALOR of Assumption, said that the decision of the President was sustained by the thirty-first rule; it was founded upon reason. If the the reading of the document were called for, and after the reading had commenced, it was found that the time of the Convention were uselessly consumed it could be arrested, and a disposition might be made of the paper. He was as unwilling to prevent the reading of any suitable paper as any one. But he could not believe in the propriety of taking up the time of the Convention with long disquisitions upon government. We had met to consult and advise upon what amendments were necessary to the organic law. If persons out of the Convention wished to enlighten us upon the reforms we ought to make, they have ample opportunity of communicating to us their views in private intercourse. And besides this, the press is open to them for a full exposition of their thoughts.

The PRESIDENT would interrupt the gentleman. The chair had decided the question, and it was not in order to discuss it.

Mr. MILES TAYLOR said, it was not his intention to discuss the matter. He would move to lay the memorial indefinitely on the table.

Mr. VOORHIES called for the yeas and nays to lay the memorial indefinitely on the table, and the result was as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Brumfield, Burton, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Labauve, Legendre, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Porche, Prudhomme, Pugh, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor, Trist and Winder voted in the affirmative—40 yeas; and

Messrs. Brent, Cade, Carriere, Cénas, Chambliss, Conrad of Orleans, Covillion, Culbertson, Derbes, King, Leonard, O'Bryan, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Scott of Feliciana, Voorhies, Waddill and Wederstrandt voted in the negative—21 nays.

Mr. SOULE asked to be excused from voting. He was not present when the discussion began.

On motion, Mr. Soulé was excused.

The PRESIDENT submitted a letter from J. A. Kelly, printer to the Convention, asking three hundred dollars, on account of printing done by him.

Mr. GARRETT moved that the president be authorized to draw a warrant in favor of said Kelly for the amount claimed; but subsequently modified his motion to refer Mr. Kelly's letter to the committee on contingent expenses.

Mr. RATLIFF objected. He said that the duties of the committee on contingent expenses was to examine claims that were actually due. It seemed that Mr. Kelly asked an advance. If it was a claim due the printer, then it would be a legitimate subject of examination for the committee. He was a working man and would never object to any labor that might be imposed upon the committee, provided it fell within the appropriate functions of the committee. But he would not consent that the house should give this matter the go-by, and divest themselves of the responsibility, by throwing it upon the committee. If in their judgment the claim ought to be admitted, why then, pay it; if not, reject; they knew Mr. Kelly's situation. He was in want of money to enable him to prosecute the printing for the Convention.

When a small claim was presented by Mr. Kelly for work actually done, he (Mr. Ratliff) asked the sense of the Convention whether it should be paid, and they decided that it should. But the present matter is essentially different. It is for them to say whether the money asked for by Mr. Kelly, shall be advanced or not.

The PRESIDENT said the member from Feliciana (Mr. Ratliff) misapprehended Mr. Kelly's letter. His demand was for work done.

Mr. C. M. CONRAD thought that some rule ought to be adopted for all similar claims, which would relieve the Convention. If some fifteen or twenty minutes are to be consumed by an examination of the accounts of printers, the labors of the Convention would be materially retarded.

The motion to refer prevailed.

ORDER OF THE DAY.

The Convention resumed the consideration of the section fixing the period for the general elections.

Mr. MAYO said, that there was a misapprehension in taking the vote upon the motion he made yesterday. It was understood by himself and some other members, that the question was put upon another proposition. Besides, he had voted with the majority, and he was entitled to move for a re-consideration. His motion was to fill up the last blank with "1845."

Mr. BEATTY said that his motion was to lay the gentleman's (Mr. Mayo) proposition, to fill the blank with 1845, upon the table, subject to call, and that that motion was carried.

Mr. VOORHIES said that he labored under a similar impression as the gentleman from Catahoula, (Mr. Mayo.)

Mr. CENAS made a similar statement.

The PRESIDENT said the question would be upon the motion of the member from Catahoula, (Mr. Mayo) to reconsider the vote, laying his proposition to fill the blank in the third section of the second article with 1845, upon the table.

The question was taken and decided in the affirmative—Yeas 31, nays 30.

The PRESIDENT said the motion of the member from Catahoula (Mr. Mayo) to fill the blank with 1845, was before the Convention.

Mr. MAYO said that the question of constitutional reform, had been a subject of great interest with the people for the last six or seven years. They were anxious to know what the Convention would resolve upon. The people expected a liberal policy in regard to suffrage, and a more just and equal system of representation. They wanted to know when they were to enjoy the privileges of extended suffrage. The public officers, too, wished to know when their term of service would expire.

Mr. READ was in favor of an early period, and of fixing the time as proposed. It was his opinion, however, that it would come in more appropriately in the schedule.

Mr. C. M. CONRAD participated in a similar opinion. The schedule provided for the governor and other officers, and he saw no reason why the legislative department should not be included in it. It was evidently unnecessary to act upon this subject at present.

Mr. BEATTY moved to lay the motion on the table subject to call; the yeas and nays were asked, and they were as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Brent, Briant, Carriere, Cenas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Peets, Penn, Preston, Prudhomme, Pugh, Read, Roman, Roselius, Saunders, Scott of Feliciana, Scott of Baton Rouge, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Wadsworth and Winder—47 yeas; and

Messrs. Brazeale, Brumfield, Burton, Cade, Covillion, Garrett, Humble, Hynson, Mayo, Porter, Porche, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Soulé, Waddill and Wedsretrandt—17 nays. So the motion was laid on the table, subject to call.

Mr. CULBERTSON said that he had given notice on Saturday last, that he would move to reconsider the vote fixing the elections on the first Monday in November. Upon reflection, he doubted whether the motion would meet with any satisfactory result. Every available month had in turn been proposed, and in turn voted down, with the exception of November, and the majority did not appear disposed to go beyond the first Monday of that month. He would have preferred June, May, or the second Monday in April. He apprehended a motion for any of these periods would not succeed, and hence, he would withdraw his motion for reconsideration, and give way to the gentleman from Feliciana (Mr. Dunn) who had made a similar motion for reconsideration.

Mr. DUNN moved to reconsider the vote for the first Monday in November.

He said, he hoped the Convention would be actuated by a spirit of compromise in fixing the time for holding the elections. That spirit had influenced him. We had been told, and the fact was notorious, that the yellow fever prevailed in New Orleans until a late period in th month of November. This induced many citizens, who absented themselves to avoid the epidemic, to keep away until the danger was passed, and if the elections were brought on at such a time, they would be excluded from the privilege of suffrage.

He trusted that this consideration would not fail to have its due weight with the majority. For himself, he preferred the month of July, but was disposed to relinquish it, inasmuch as he had been told that by reason of high water in some sections of the State, it would be excessively inconvenient for voters resident in those sections to attend the polls.

It was incontrovertible that the majority ought to govern, and to enable the majority to declare their sentiments, the elections should be held at that season of the year when the full expression of the public voice could be heard.

He trusted that the sober second thoughts of the majority would convince them of the injustice of placing the elections at any period of the year, when a large portion of the legal voters would be absented. It was a question of fact whether the city of New Orleans was not exposed to the fatal effects of the epidemic at the beginning of November. If that question were decided in the affirmative, and it could be resolved in no

other way, why then, was it not evident that a gross wrong would be done to the citizens of New Orleans by requiring them to cast their votes at so unpropitious a period? Why not extend the time for twenty days longer; that would evince a spirit of compromise, and a disposition to carry out the principle of convenience, which should be extended to all parts of the State.

Another reason, that ought to have great weight, was that the presidential elections every fourth year, came on at this identical period. It would be a great misfortune to connect general with local politics.

If the first Monday of November be maintained may it not be inferred that there is something more than the convenience of some particular locality involved? If that period be insisted upon, he (Mr. Dunn) would not say an intentional wrong was contemplated, but unquestionably there was the *semblance* of wrong?

We should be ready to render full justice to all; to place political power in the hands of those to which it legitimately belonged, and to do this we should consult the interests and the convenience of all. He was influenced upon this floor by no party considerations, it was not a question of whether whig or democrat should profit, but a question of what was right, just and proper. If there be any thing improper or unjust in the constitution we were about forming, it will incur the risk of being rejected, for the people will not ratify injustice—they will not sanction oppression.

Mr. Dunn concluded by an appeal in favor of compromise—of concession; if no period (said he) can be selected, generally acceptable, or more acceptable than the period fixed in the constitution, why then, the best policy would be to maintain that period, consecrated as it is, by thirty-two years' experience.

Mr. WADDILL, with a view, as he stated, of giving the present matter the go-by, for the present, offered a resolution appointing a committee of five to inquire and report upon the number of votes given at the municipal elections, and those given at the presidential elections.

Mr. CLAIBORNE, in order to give further time for reflection, and in order to obtain the information contemplated by the gentleman from Baton Rouge (Mr. Waddill) moved that the matter lay on the table until to-morrow. The information obtained might induce the majority to accept of July as a compromise.

The motion to postpone was lost.

The PRESIDENT stated that the question before the Convention, was the reconsideration of the vote taken upon the first Monday in November.

The question was taken, and it was negatived.

Mr. BENJAMIN moved to reconsider the vote given upon the month of July. He had voted against that month with the majority.

Mr. RATLIFF considered this motion to be out of order: If this course were sanctioned, it would lead to interminable proceedings. Twenty votes might be taken on the negative and affirmative of questions that might arise in one day, and the next day we would have forty motions for reconsideration. He did not conceive how the gentleman could go back and raise the question of July. The motion to reconsider November, being lost, it appeared to him that all other motions to reconsider other periods, were out of order.

The PRESIDENT said that according to the rule, the question of July could be reconsidered. If the house determined to reconsider that vote, it did not displace November, it only placed the whole subject again within the control of the house. This was his understanding of the matter.

Mr. WADSWORTH said, in conformity to the rules, he would give notice of his intention to move a re-consideration of the vote upon November. By giving two day's notice, he thought himself within the rule, and any time thereafter he could call for question upon the reconsideration.

Mr. C. M. CONRAD said that the gentleman (Mr. Wadsworth) would have to specify in his motion when he intended to take up the question of reconsideration.

Mr. CLAIBORNE participated in the opinion of his colleague from New Orleans, and made some remarks to sustain that contradiction of the rule.

Mr. WADSWORTH then gave notice that on Thursday next, he would move for the reconsideration.

Mr. BENJAMIN gave notice that he would move, on the same day, for a reconsideration of his vote upon the month of July.

Mr. KENNER inquired of the chair wheth-

er there was any rule requiring motions to be submitted in writing.

The PRESIDENT replied that motions had to be reduced to writing when any member required it.

Mr. KEAD moved the adoption of paragraph 3d of the section.

Mr. DOWNS moved to amend the 4th line by inserting after the words "the general assembly shall meet on the third Monday of January," the following: "immediately after the election." Adopted.

Mr. CULBERTSON moved to strike out that part of the section that authorised the legislature to fix another period for their meetings, than that appointed by the constitution.

The question was taken, and it was negatived—33 in favor, and 35 against.

A motion was made to adopt the paragraph, which lead to a slight discussion whether that motion was in order, in which Messrs. Conrad, Roselius and Taylor of Assumption, participated.

Mr. BOUDOUSQUIE would ask a simple question of the chair: whether questions that had been negatived could be reconsidered? If they could, it seemed to him the Convention could make but little progress. Every question that had been debated, discussed, and voted down, could be brought up *de nevo* before the Convention. Were there any limits to these reconsiderations of articles of the Convention?

The PRESIDENT replied that this was the dilema to which the Convention were reduced.

Mr. KENNER: So far from being a dilema, it was the intention of the Convention.

Mr. PRESTON moved to amend the 3d section so as to make the sessions annual, instead of biennial.

Mr. CLAIBORNE hoped this amendment would not be carried. Experience had shown that the frequent sessions of the legislature tended rather to prevent bad, than secure good legislation. The principle of biennial legislatures was found to work well, wherever it had been tried; and in addition to that consideration, and many others that might be adduced; it was a great economy.

Mr. PRESTON said that his views upon this subject were not hastily formed, with but little reflection. It was not necessary for him to say a great deal in support of the principle. The reasons that decided his judgment, would occur and carry conviction to every man that would take the trouble of investigating the matter.

In the first place, experience indicates to us the expediency of adhering to the system. It has been in operation among us for thirty years, and each succeeding legislature has had ample business to engage its attention. To this experience of our own, we unite the experience of twenty-four of our sister States, who have adopted and continued the same system.

The only exception to this almost general rule, are the States, he believed, of Mississippi and Tennessee; and if the former State has only biennial sessions, there are so many called sessions, that it is equivalent to holding annual sessions.

Then, continued Mr. Preston, in addition to the thirty years' experience that we have, we find that in every constitution, including the constitution of the United States, and bating the two instances to which he had referred; in all the constitutions adopted before and after the constitution of the United States, and comprising a period of nearly sixty years, that this principle has universally been adopted; that it was adopted when the colonies became independent States; and that it were excited when they were colonies. It was based on experience; and was a matter of such self-evident necessity, as to be consecrated not only by our own example for thirty years, but by the example of our sister States of the confederacy.

The business of man, Mr. President, is annual. The planter makes his annual crop and balances his yearly expenses. The merchant, too, posts up his books with the end of the year, and prepares for business for another. The lawyer settles up his old business, as far as he can, and prepares himself for new, and to extend the circle of his clients. The physician does the same thing. Our judges endeavor to clear their dockets at the end of the year; and our most important officers are bound annually to make their reports of the conditions of the departments confided to them.

It is, therefore, manifest that there is nothing so extraordinary that our legislation, which should vary with the wants and

wishes of the people, should be renewed or subject to examination annually. In a new country there are so many important interests to be promoted—so many new wants arising, that the business of legislation is one of the very highest importance to the community. Take one branch of the public service for an example; our revenue laws, notwithstanding the experience we have had, they remain still very defective, and do not produce all the results that can be desired. New sources of revenue, too, are springing up, which should be made available to the exigencies and wants of the State. Surely our debt is very heavy, and we require every cent of revenue we can raise—not by inferring, however, burthens upon those citizens who already contribute—but extending the circle of taxation; discovering new objects upon which it may be laid, and other classes of our citizens who should contribute their proportion to relieve the State from her embarrassments. It is necessary and proper too, that all receiving officers should be held to a strict accountability, and be compelled to answer for their stewardship at the end of every year. And who, Mr. President, can hold them so well to that accountability as the legislature.

They should obtain their quietus—I use it because it is an old term, but I much prefer the expression, a full discharge—before they should be permitted to retain their employment for a succeeding year. The treasurer of the State, too, has his annual accounts to present to the legislature. I like that portion of our constitution, Mr. President. Then again offices are to be filled—it is true, that most of the appointments are biennial, bnt in the event of death, resignation, or other contingency to the incumbent, is it not well that the branch of the government that ratifies those appointments should be in session annually, to perform that very important function. In the senate, too, is lodged the pardoning power; for, by the constitution, the governor may grant pardons, reprieves, remit forfeitures, subject to the examination and ratification of the senate. The power of trying impeachments, too, are confided to the senate. The house of representatives is the grand inquest of the whole State, as the grand jury of a parish is the inquest of that particular parish. It is their duties to inquire, and with the participation of the senate, to perfect our social system—to look into the revenues. There are now forty odd parishes in the State, and a great number of local officers, into whose conduct and fidelity the legislature is bound to inquire into annually. Why should we not adhere to that which is sanctioned to us by time immemorial, by the experience and the test of time? Why should we abandon a good system—a system that had been adhered to with but two solitary exceptions. A system that is immemorial.

But, says the gentleman from New Orleans, (Mr. Claiborne) it is necessary to have biennial sessions in order to prevent bad legislation. This argument defeats itself, for if bad legislation be the consequence of annual sessions of the legislature, what guarantee have we that there will be only good legislation if we have only biennial sessions. And suppose but one solitary aet of bad legislation is consummated during one biennial session, how are we to get rid of it before the return of the next session, at the expiration of the two years?

I will, said Mr. Preston, mention a case in point, which will strikingly illustrate that part of the argument. During the session of 1844, a decided disposition existed in the legislature to get the State clear from all connection with banking corporations—to divorce her from those institutions. For that purpose an act was passed for the relinquishment of the interest of the State and the disposal of her stock. The conditions upon which this arrangement with the banks was to be made, was subject to the consent of those institutions, and in consideration of certain advantages allowed them, a favorable stipulation was made for private individuals, who were their debtors allowing these individuals the privilege of renuing upon the payment, say of ten per cent. *inclusive* of interest. The legislature, without doubt, intended ten per cent. *exclusive* of interest, instead of *inclusive*; for otherwise the debt would never be paid. The payment of ten per cent. inclusive of interest would not pay the debt in one hundred years, whereas the payment of ten per cent., *exclusive* of interest, would pay it in ten years. The consequence was that the banks refused to ac-

cept the law, and by that, and that alone, the State lost one hundred thousand dollars. She lost them as effectually as if so many dollars were taken out of the treasury and thrown into the sweeping stream of the Mississippi. It is a matter of wonder that the legislature have not yet corrected the error, perhaps its consequences are irretrievable, and that the banks would not now be disposed to embrace the stipulations of the law; so the State will continue to lose one hundred thousand dollars per annum, which would have been saved but for the unfortunate substitution of the letters *i n* for *e x;* for at this time when the law passed cotton was at a high price, and there were the strongest inducements to the banks to accede.

But, if we must admit the force of the gentleman's argument that bad laws are passed, why then, in the name of God, do not deprive us for two years of the faculty of repealing them. Those who may have participated in their passage will be forced by public opinion to repeal them so soon as the legislature is convened. That argument seemed to him (Mr. Preston) paramount in establishing the expediency of annual legislation. But without asserting, as the gentleman does, that there is bad legislation, the very possibility that it may occur, could be most conclusive.

Mr. Claiborne: Mr. Preston has mistaken me. I did not say we had bad legislation, but simply that the legislature occupied itself more with preventing the passing of bad laws than in the passing of good ones.

Mr. Preston: Very well. That does not prevent me from concluding that the arguments I have used are as powerful as they are just. We have as much occasion annually to prevent bad laws, as to enact good ones. Experience has proved that it is necessary to be continually scrutinizing the laws; and in supposing that the legislature errs oftener than is generally admitted, I still believe that it effects more good than evil, and that its probity will always be more useful than its blunders will be dangerous.

As to the expenses, I confess that the legislature is too long in session. Thirty consecutive days would be amply sufficient, as in South Carolina, without restricting however the executive from exercising its right of convoking extra sessions. Acting thus, the expense would be inconsiderable; twenty thousand dollars would cover all costs; twelve thousand for the sixty representatives, the seventeen senators, and twenty officers, at four dollars a day, with eight thousand dollars mileage—reducing it to that figure in consequence of the facilities for transit which we now enjoy. Assuredly, Louisiana, whose population and industry are every day on the advance, could afford this annual tax.

It is in vain you will say; there are never too many amendments in the business of legislation. A multitude of local matters must inevitably come before the legislature though even you were to leave to the police juries of the parishes of the State, the business connected with the care of the rivers, lakes and bayous, slaves and other subjects of minor importance. Observe what is passing this year! It was thought that in the presence of the Convention, the legislature would suspend its sittings. On the contrary, this multitude of small local affairs give it a glut of occupation and prevent it from adjourning. It is even possible that a great quantity of arrears will be left! It is a misfortune you will say perhaps. I agree with you; but that is another reason why I shall insist on the necessity of the amendment I have proposed.

Mr. Marigny: It is my duty, as a member of the legislative committee, and as I have sanctioned the clause which is attacked, to demonstrate its utility. If the Convention adopt the amendment offered by Mr. Preston, it will fail in its duty to itself. In fact, why did the people ask for the Convention? What else but to provide means for introducing a system of wise economy, to restrain the legislature and to prevent the State from compromising its faith, and from contracting endless debts? Every political meeting at which I have been present, has professed this doctrine; every speaker whom I have heard discuss the subject has warmly and eloquently sustained these principles and their consequences. And now the delegate from Jefferson, who has no doubt used the same language, comes forward to try to prove to us that it is absolutely necessary that the legislature should assemble every year. This is what I cannot understand. Reperuse the report of your committee, and

you will find that there are now not sixty but seventy representatives, and according to every probability, there will shortly be a hundred. How is it possible that the assembly of this immense number of legislators can be brought about without an enormous expense to the State? And then, if they immediately proceed to the great object of their mission; which is not always uppermost in their thoughts?

For twenty years, during which I occupied a seat either in the senate or the house, I remarked that the session always lasted from two to three months, and out of sixty members of the latter, there were usually fifteen or twenty on leave; and proportionably it was the same case with the senate; which abundantly proves that neither one body nor the other occupied itself seriously with the public interest, and whatever might have been urged upon them to stimulate them to expedition, they never adjourned until the 15th of March, a period when it was absolutely necessary for them to look after their sugar or cotton. Thus, as men rarely change in this mode of thinking and acting, what has been will again occur, and notwithstanding all the fine oratory which may be employed on the subject, there will always be, year after year, an expense incurred of one hundred thousand dollars for the twenty-five senators and seventy-five representatives.

But the delegate from Jefferson lays great stress on certain facts, and if I rightly comprehend him, says that on correcting a single word, they had or might have saved one hundred thousand dollars. This is probable, but there is another fact which is still more important. Let us suppose that the constitution, which we are now making lasts thirty years, that our legislature costs one hundred thousand dollars each time it meets, if instead of assembling once a year, it only sits once every two years, is it not plain that at the end of thirty years you will have saved one million five hundred thousand dollars of the money of the State, without reckoning interest? That, at all events, is worth your one hundred thousand dollars.

It is true that henceforward, the State will not be permitted to pledge its faith to issue bonds, to make appropriations for the bayous Pigeon, Laviolette, &c. and that the legislature will meddle less with the public affairs, but this will be no evil, and on the other side the State will gain by it; which is all that we have a right to desire.

Very well, says Mr. Preston; but local affairs! local affairs! It is necessary that your legislature be charged with the administration of the bayous and ferries, Have you not your police juries who would readily undertake the care of these affairs? Arrange in such a manner that the legislature shall only occupy themselves with the passing of general laws, and then a session of forty or fifty days every two years, will amply suffice for the due discharge of their duty. We are not here in Louisiana as in other States, involved without hope in the intricacies of the common law, in which the lawyers alone are at home. We have one code, one written law, which every one can read and understand.

I have then the right to express my astonishment when I hear the great economist, and the declared champion of the democracy, engage you in the consideration of a project which would multiply your difficulties and your expenses, if you once seriously entertained it. There ought to be here neither whigs nor democrats; we ought all, as good Louisianians, to unite with one accord, to lay down the true principles of order and economy. It is for these reasons I shall vote against Mr. Preston's amendment.

Mr. Read remarked, that Mr. Preston had committed an error in his political statement. With the constitutions of these States in his hand, he could prove that there are seven, viz: Missouri, Arkansas, Illinois, Mississippi, Tennessee, Delaware and Ohio, whose legislatures sit only once in two years.

The President then put the question on Mr. Preston's amendment, and it was rejected, by a vote of 59 to 7.

Mr. Downs: I move that after the words January the words "which shall follow immediately after the election," be inserted.

The Convention adopted the amendment.

Mr. Culbertson: I move that the following words be omitted: "unless another day be fixed by law."

This amendment was also adopted.

Mr. Claborne: I move that the words

"during the day only," be substituted for "one day only."

This proposition became the subject of a slight discussion.

Mr. Claiborne withdrew it.

The question was then to adopt the third section of the second article, except the first paragraph, which remained for the consideration of the Convention.

Mr. Conrad of Orleans opposed it.

Mr. Downs sustained it.

Mr. Lewis sided with the former.

Mr. M. Taylor with the latter.

Mr. Boudousquie then observed to the President, that if they could thus adopt under a reservation to examine, there would be no end to their labor.

The President stated that such are the rules, and that the Convention had decided it so.

The question was then to adopt the first paragraph of the third section as amended, which was carried by a vote of 59 to 8.

Mr. Sellers: I move to expunge all the fourth section of the second article relative to the qualifications required from candidates for representatives; and the reason I assign for the motion is, that the people, even to the women, are the best judges of the qualifications necessary for a representative.

Mr. Read: I move to substitute for this same fourth section, the following words: "Every elector possessing the qualifications required by the present constitution, is eligible for election to the house of representatives.

Mr. Grymes declared that these words signify the same as those which are comprised in the section; but he made a mistake regarding the section, and was corrected by Mr. Mayo.

Mr. Benjamin: I oppose the amendment. We have not yet decided on any thing regarding elections. Why then vote in the dark? We can well understand the qualifications necessary to be required from candidates to the house, and know nothing about those which shall distinguish electors. It is better to wait a little, and not in this manner mix up section after section.

Mr. Boudousque wished to know if the section would remain subject to call, should Read's amendment pass.

The President answered it would.

Mr. Downs remarked, that in expunging the last clause of this fourth section, it would be similar to the corresponding section in the old constitution, and he therefore moved that the latter be chosen.

The President then put Mr. Read's amendment to the vote, when it was rejected.

Mr. Sellers moved that his motion be disposed of.

Mr. Guion moved that it be laid on the table, and the Convention adopted his motion.

The President: The question now is on the fourth section of the second article.

The secretary read it as follows:

Sec. 4. No one shall be elected a representative that has not attained the age of twenty-one years at the time of his election, if he is not a free white citizen of the United States, if he has not resided in the State for the two years immediately preceding the election, and the last year in the parish of which he is elected representative.

Mr. Kenner: I move to substitute the words "twenty-five" for "twenty-one," and "five" for "two."

Mr. Lewis: Divide the question.

The President: The question now is to expunge the word "two."

The yeas and nays having been called for,

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Loselius, Saunders, Sellers, Taylor of Assumption, Trist, Voorhies, Wadsworth, Winchester and Winder voted in the affirmative —35 yeas; and

Messrs. Brazeale, Brent, Cade, Carriere, Cénas, Chambliss, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard, McRae, Marigny, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Waddill and Wederstrandt voted in the negative—33 nays; consequently the word "two" was ordered to be expunged, and

The Convention adjourned till to-morrow at 10 o'clock, a. m.

Tuesday, January 21, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened by prayer.

Mr. Read moved for the adoption of the first paragraph, third section as amended.

Mr. Splane moved to fill the blank requiring the qualification of residence, for a member of the general assembly to one year's residence preceding the election.

Mr. Dunn prefered five years, and moved that the blank be filled with that period.

Mr. Splane said he would not make any lengthy argument in favor of his proposition. He thought the qualification of one years residence was sufficient, for he felt assured that unless the candidate gave unerring indications of his attachment to the interests of the State, the privilege of suffrage would not be bestowed upon him, whether the residence was one or two years, and that a man really designing to identify himself with the State, would be as effectually identified in one year as in five, or a longer period. After all, it was the province of the people to determine who should represent them, and they were the best judges both of the ability and fidelity of candidates. Their judgments would not lead them astray.

Mr. Miles Taylor said he was in favor of the proposition offered yesterday by the delegate from Concordia, (Mr. Sellers) to strike out all the qualifications and leave the voters unrestricted in their choice. That could very well be done, if, in defining the qualifications of voters, we took care that none but the real residents of the State, those identified with her in one way or another, should be invested with the highly important and vital prerogative of suffrage.

The most essential question was to determine who should exercise the political power of the State, and if that were properly and discreetly determined, the utmost latitude could be given to the voters to select who should represent them. It was true, it was within the range of possibilty that they would make occasionally an improper choice, but it was *barely* within the range of possibility. It was not likely they would abuse that freedom. It was not likely they would elect a colored person or a woman to represent them. But if it be deemed necessary to erect barriers against *possible* abuses, let them be effectual ones. For this reason, if qualifications were to be required, he, Mr. Taylor, would sustain those that appeared best calculated to effect the purpose for which they were intended. Consequently, he would prefer five years to one, for the residence, that being the longest period, and offered the surest guarantee.

Mr. Lewis said he would not trouble the Convention with many remarks. He had never wearied the patience of the Convention by any thing extensive, and he certainly would not do so now. If we consider the present question in its effects and influences, it was one of the greatest possible importance. The idea had been inculcated that the greatest freedom should be accorded to the masses, of which, Mr. President, you and I are units. This doctrine was beautiful in theory; but what was its practical effects? What would be the practical results of carrying out the principle of unrestricted liberty? Why, it would be an abrogation of all government! What is Government? The very term government necessarily implies restraint. It implies that some govern and others obey. Throughout, government is a restraint, and when it ceases to restrain, it ceases to be government; none govern and none obey—it is anarchy, and society is resolved into a state of nature.

It is said that sovereignty resides in the people. This is true in itself; but attempt to carry out the principle literally, and you have the republics of Athens and Sparta, which proved in the end to be impracticable. A pure, unmixed democracy is an absurdity. It is opposed to the very nature of man. Some restraints are indispensable to the protection of the minority, and if you yield that up, then your pretended government becomes a mere farce. It cannot be government unless it protects the minority, and restrains by its authority, violence and disorder. It cannot be government unless it have the force to restrain any sudden ebullition of popular excitement within bounds.

Where is the use, it may be asked, of requiring a certain well defined residence before one be allowed to enter the halls of your legislature? It is because it would be unreasonable and unsafe, to abandon

that guarantee of attachment and fidelity to the State. We, the people, are liable to err, and to be led astray. We are liable individually and collectively to be swayed by our passions, and our interests; and it is wise and prudent that we should be under some of those wholesome restraints which are dictated to us in our cooler moments, as necessary and indispensable to keep us within the bounds of discretion. It is utterly absurd to believe that our government, that any government, can exist without restraint, reposing solely and entirely upon the momentary will of the people; the majority of whom are omnipotent for evil, as well as for good. The minoity must be protected from the majority, and the majority protected against themselves. This position is irrefragible. We must take the position, that there is, and necessarily must be, some restraint. We must look at the qualifications of the representative, and have these qualifications positively prescribed. It is true, we often hear that the representative is the servant of the people, but this is only true in one sense. In another, the representative is the ruler of the people. The truth may be unpalatable to the ultra democracy, the ultra democrat, and the jacobins. They may not relish the idea of submission in the sovereign people, but relish it or not, to get rid of it, they must destroy the very essence of government. He hoped there were none here who indulged in the visionary idea, that restraints were idle. To such utopian dreamers the naked fact must appear distasteful, but there it was, inseparable from any possible system of human government. In all countries, and among all people so soon as restrictions ceased, government ceased. Anarchy invariably followed the extinction of that vital principle of government.

To establish a state of society, it was requisite for each individual to give up so much of his personal liberty as was essential to the government and well-being of the whole, and which would secure to him adequate protection for the liberty he retained. To suppose, then, that he was under no more restraint than in his native state of liberty; that there was no limit to his conduct, but his feelings and his impulses involved a paradox. It was an absurdity.

Communities had the inherent right to determine upon what conditions, persons coming among them should participate with them in the administration of the government, and exclude them altogether if reasons of policy dictated it. Surely, it was within their province to determine at what time they would consider a person coming from abroad sufficiently identified with their peculiar system of policy. To say that any man, even from our sister States, who had just put his foot upon our shores, was qualified to enter our legislature, and to make laws for our government and the regulation of our property, was asserting that which common prudence and sagacity repudiated. It was an error and a folly to suppose that such persons could be eligible without any danger of their being chosen, and if chosen, without danger to the permanent interests of the State. That *vox populi* is always *vox dei*, said Mr. Lewis, I utterly deny. It is a favorite but a fallacious doctrine of demagogues. From the *Peloponnesiacum bellum* to the present time, it has universally been the practice of demagogues to delude the dear people by flattering them, and those who have tickled the fancies of men the most, have invariably been the most successful—I cannot say, they have proved in most cases, to have been the best qualified to fill the stations to which they were elected.

Whence proceeds, asked Mr. Lewis, so much improper legislation? It is because men are actuated too often by their sudden impulses, and go to extremities without weighing the consequences! Hence, the necessity for hedging our liberties with proper guards and restrictions: to limit the power and the possibility of doing evil, as far as human sagacity can prevail.

Can it be said that we would be acting discreetly, to throw open our institutions to the immediate control of persons who have just come among us—who do not comprehend and frequently are prejudiced against those institutions; to persons more especially who come from Europe—whose systems of government are so entirely dissimilar to that peculiar system adopted in the United States? Should no probation be required of such, to learn our system: to get rid of their prejudices? Even between Louisiana and her sister States.

there is a material difference in their respective systems of jurisprudence. Louisiana is the only State in the Union where the civil law prevails. It is the only State whose jurisprudence is derived from that pure source. And, whatever errors and fallacies may have existed in the despotic government of Rome, it is the most perfect and equal system of law, that the sagacity of man has ever discovered. With my little experience in it, I would not, (continued Mr. Lewis) exchange it for any other system under the canopy of Heaven. And, are we to entrust the government of our State to persons who are profoundly ignorant of this peculiar system of law? The gentleman from St. Mary's, (Mr. Splane,) thinks that one year's residence is a sufficient qualification for a member of the Legislature. I would ask that gentleman, from his own experience of the civil law, whether a common law lawyer, from one of the other States, could have a sufficient knowledge of the civil law, to take part, understandingly, in the proceedings of the legislature, having relation to our jurisprudence, after a residence of but one year. He would have first to unlearn all that he had learned: to get rid of his prejudices in favor of the one system and his aversion to the other: that would be a first rate step, and it would take more than a year to qualify him for the local duties, even of a police jury. I do not mean to acquire that perfect knowledge of the profession necessary to the barrister at law—that intimate acquaintance with its practice—but a general idea of what our system of laws are, what laws are actually in force, their general tenor and character; the same range of information that is possessed by our farmers and planters who aspire to be members of the legislature. And is it to be seriously argued in this body, that we would be justified in permitting strangers that have but just arrived, who do not understand our laws nor our peculiar interests, to step into our legislature, and without any preparation, at once take part in modifying our system, in directing and in controlling it? —that in our boundless liberality and generosity we should divest ourselves of political power, and confide it to perfect strangers? that we should place ourselves entirely at their mercy and under their control? For one, I am unwilling to do any thing of the kind. I believe in morals as in politics, the nature of man is frail. I cannot give my sanction to a proposition, to open the door and let persons, having no identity with the State, nor no feelings in common with the permanent population, rule us. I cannot consent that every thing should be decided at the ballot box, and that there should be no anchor of safety. I am for imposing reasonable restraints for the protection of ourselves and our children, and hedging our liberties with adequate barriers. With every breeze, the popular will may have changed, and the majority become the minority. There would be no security nor no permanence for our institutions. We would be tossed to and fro upon a tempest of popular excitement.

Let some reasonable period be then adopted that will afford us some guarantee; that will justify the presumption that those who have come among us have become acquainted with our institutions and are identified with us. Five years may possibly be too much. I am not a stickler for that particular period, although I doubt much whether the majority of those that come among us will be able to appreciate our institutions in less time. I am, however, disposed to meet discordant views upon the principle of compromise. Some period is unquestionably necessary, and upon my conscience I do not think five years too much.

Mr. Brent said, at the risk of being considered a jacobin, a demagogue, and a radical, he rose to sustain the motion of the delegate from St. Mary, (Mr. Splane,) and oppose the motion of the delegate from East Feliciana, (Mr. Dunn,) requiring five years' residence as a qualification to sit in the general assembly of the State. When the proposition was made yesterday to strike out two years, he voted against it, because he apprehended that this very movement would be made to increase that term of residence. But, inasmuch as the blank had been created, he participated in opinion with the delegate from St. Mary, that one year was amply sufficient. He concurred fully in the proposition presented by the delegate from Baton Rouge, (Mr. Read,) in the form of a substitute for the section, which provided that the qualifica-

tions of the member returned to the general assembly should be identical with those of the voter. This was no new principle. It had been consecrated in the constitutions of several of our sister States. It was the true principle of representative government, and any other was at war with democratic institutions. I contend we are not called upon—it is not our duty to impose barriers and obstacles in the enjoyment of the political rights appertaining to the people. We have no right to impose shackles which are not even to be found in the old Constitution. Our mission is to give the people greater liberties; not to restrain the liberties which they already enjoy. Is it to throw impediments in the way of popular rights, that we have met to amend the old Constitution?

But, Mr. President, to show that I am not mistaken in asserting that the principle making the qualifications of a member of the general assembly and a voter identical, is not a new one, but has been consecrated in the Constitution of several of our sister States of the Union,—I will quote from their Constitutions:

Mr. Brent read the 1st section of the 6th article of the Constitution of Connecticut; also the 4th article of the same section, and the 3d article of the 7th section of the Constitution of Virginia.

I will not occupy the attention of the Convention by reading further extracts from the Constitution of other States, showing that they have embodied a similar principle. What I have read shows that the principle is not a new one, nor is it original to this body.

It is a correct principle. It does not establish a privileged class. It does not divide our population into two classes, one to be favored, and the other not.

The President said that the debate appeared to embrace a very wide range. It would be well if gentlemen were to confine themselves strictly to the subject under discussion. It would save a great deal of time, and facilitate the despatch of business.

Mr. Brent: The point I have spoken of has a direct application in sustaining the principle of one year's residence as a sufficient qualification, as far as residence is concerned, for a member of the House of Representatives. That period has been deemed sufficient for an elector, and it is but right, just and proper, that an elector should be eligible to the House of Representatives, or any office in the gift of the people. In relation to the term of residence, is it intended that the Convention should retrogade—go backwards. Can it be possible, that we are to throw barriers not provided by the old Constitution. If we adopt the old Constitution as our guide, it requires a residence of two years. From whence comes this proposition, which requires a residence of five years. Is it to be supposed that it was the intention of the act calling this Convention, to throw obstacles and barriers in the exercise of the political rights belonging to the people. Is that the reform which they had a right to expect? I do not understand such to have been the intention of the people! But what is the practice in reference to this subject elsewhere. We find that in the constitution of fourteen of the States, but one year's residence is required as a qualification for the House of Representatives. These States embrace the oldest, the youngest, and the largest in the confederacy, to wit: Maine, Massachusetts, Rhode Island, Connecticut, Virginia—Ohio is silent as to residence—Indiana, Illinois, Michigan, and Arkansas, &c., &c. More than one-half of the members of the United States confederacy require but one year's residence, and are we to be asked at this day to impose a greater restriction? Is there any good reason why Louisiana should adopt a different principle of government from her sister States? We find some States that require a residence of two years to be eligible to the House of Representatives, to wit: Missouri, Alabama, Mississippi, Kentucky, Vermont and New Hampshire, making twenty-one States that do not require a greater residence than two years. The remaining States require three years, and are we to establish an odious distinction, not to be found in the Constitution of any other State in the Union!

The delegate from Opelousas (Mr. Lewis) seems to think that there is a disposition on the part of those that wish to liberalize the Constitution to abolish all law, and establish some system without control, without check.

When we come, (said Mr. Brent) to that provision to curb the legislative de-

partment, it will be seen who goes farthest to restrain, within well defined limits, the power of the legislature. I am not, it is true, in favor of proscribing or restricting the rights of a portion of the community; but, at the same time, I am as reluctant to break down society, as the gentleman from St. Landry. I wish to see established equal political rights, in which every man may participate, be he rich or poor. That the exercise of the right of suffrage shall be opened to every citizen, and that every voter shall be eligible to any office. These are my principles, and I wish to see them carried out in their integrity.

Mr. Dunn would briefly explain the reasons why he proposed a residence of five years. His principal reason is based on the position of Louisiana, which made him reluctant to entrust the administration of her affairs to the hands of strangers, of persons who knew nothing of our institutions, and whose peculiar feelings, manners and education, were so essentially different. It would take at least five years for a person of ordinary intellect, coming from a distant corner of our Union, to become familiar with our institutions, habits, history, locality, and above all, our peculiar system of laws, which, as has been stated by the delegate from St. Landry, (Mr. Lewis,) differs so materially from the laws of the other States of the Union. Would it be the part of wisdom to intrust our institutions to strangers, utterly ignorant, careless, and indifferent, to our interests? But it may be urged by our honorable friend and colleague from Feliciana, (Mr. Ratliff) who will no doubt address the Convention in opposition to my views, that the people of the parish will take care not to confide their interests to incompetent hands; and it is not to be presumed that they will send a stranger to represent them. That is the very reason why I insist upon the requisite of five years' residence. If the people will not do it, it is an indication that they do not wish it; and how, I may well ask, can it be considered and stigmatized as an odious principle to engraft upon the Constitution the feelings of the people themselves? The fact that the people will not do it, should be conclusive of their wishes. I will concede readily that it is not likely that strangers will be elected to the legislature. I agree with the delegate (Mr. Ratliff) in that opinion; but where is the wrong in saying so, and placing that restriction in the Constitution? What is to be gained by leaving the matter open.

But, the gentleman (Mr. Ratliff) may tell us, that if one particular parish should think fit to send a person to the legislature not conversant with our interests, a stranger, it would occasion no injury to the other portions of the State. I beg his pardon. I hope he will not insist upon such an argument. Not only would the incompetency, the unfitness of the representatives of any particular parish effect his own immediate constituents, but it would prove detrimental to the people of the whole State. The power to do evil is not limited to the parish that sent him, alone, but is commensurate with the State.

I will put it to the Convention, why if one year's residence be insufficient to qualify a transient person to fill the important station of representative—and to this no one can dissent—what harm can there be in incorporating the principle excluding such person. If there were any invidious distinctions in relation to that particular class of persons, then I admit that there would be something odious in the distinction; there would be something personal. But, inasmuch as the restriction is general in its nature, it should give offence to none. Besides, the exclusion is only for a definite period—a period surely not disproportioned to the end to be attained.

Is there any thing unreasonable in anticipating that all our public offices may be filled with benefit to the State, by her native sons; by those identified with her, either by birth or by a residence of several years; by the strongest local attachments? Is it unreasonable to anticipate that our colleges and public schools will send out young men, capable of aspiring to the highest offices in the State? If there be any advantage in our legislation, surely the natives of the soil are entitled to it. The immigration to Louisiana is immense, and hourly on the increase. In that respect, the situation of this State is dissimilar to that of Virginia, and the Bay State. Their population is not on the increase, whereas there is not a day that thousands are not arriving in this city. I am, said Mr. Dunn, glad to see them, and cordially extend to them the right hand of fellowship, and

when they have remained long enough to become identified and can appreciate our institutions, I am willing they should participate freely with us in all the rights we enjoy.

Mr. C. M. Conrad had a few observations to make in reply to what fell from the delegate from Rapides, (Mr. Brent.) That gentleman affirmed, what in his opinion, is the true republican doctrine—and that doctrine is that no restraint should be imposed in selecting agents to whom are to be confided political trusts. That doctrine may be true. It may be . . . . . .

(Mr. Brent explained what he did say.)

Mr. C. M. Conrad: The true republican doctrine as expounded by the delegate, (Mr. Brent) that the qualifications of members of the legislature and of other public officers, should be identical with the qualifications of voters, is somewhat new and novel to me. I have never before heard it broached in Louisiana. One or two States may possibly have adopted it, but the great majority of the States have adopted a different principle.

I will begin with the Constitution of the United States. In reference to the qualification of members to the House of Representatives, it prescribes that they shall have attained the age of 25 years. So that if the popular mandate were to indicate a man of the most distinguished talent—a political miracle like Pitt, who at the age of 25 years was premier; one as distinguished as Jefferson or Henry Clay, he could not be eligible unless he was 25 years of age; nor could he be a representative unless he had been a citizen of the United States for seven years. The same qualification that would entitle him to a vote, would not be sufficient to entitle him to a seat in Congress. For the latter, it is indispensable that he should be a citizen for seven years, and an inhabitant of the State from which he was chosen. This restriction is in a Constitution framed by Madison and Franklin, presided by Washington. The republican principle for voters and for members of Congress are in that instrument essentially different. If the true republican doctrine be as stated by the gentleman from Rapides, (Mr. Brent) the fathers of the Constitution were in the utmost darkness and ignorance.

But let us look into the State Constitutions. In Maine, a residence of five years is required. In New Hampshire, a good democratic State, seven years' residence is required. In Massachusetts, a free-hold and five years' residence is required.

(Mr. Brent thought the delegate from New Orleans was mistaken in relation to Maine.)

Mr. C. M. Conrad: Five years' residence and citizenship are essential, in Maine, to be a member of the Senate, and two years' residence to be a member of the House of Representatives. In Connecticut, one must be a citizen and pay taxes. In Vermont, two years' residence is required. In Ohio, no residence is required, but there is a property qualification. I would beg the gentleman from Rapides (Mr. Brent) to consider one point. Louisiana is peculiarly situated. In Virginia, North Carolina, the Eastern and Northern States, a short residence may be allowed to acquire a citizenship. Why? Because immigration is small, and those that come are lost in the mass like drops of water in the ocean. They are not sufficient in numbers seriously to affect the character of the representative body. The greater proportion of the population in Louisiana is new: the tide of immigration is flowing into New Orleans, and the increase is greater here in one year than it is in Virginia in five—New Hampshire in ten—Rhode Island in twenty. Who goes to Maine? Immigrants would rather go to Texas. Who goes from Louisiana to New Hampshire? Immigration flows south, not north.

All the doctrines and examples of the delegate from Rapides (Mr. Brent) have no application. The resources of Louisiana, her wealth, public lands, the inducements held out to enterprise in a large city, invite, encourage immigration among us. I would throw no obstacles to obstruct that immigration; but I would not entrust the government of the State to persons who had not yet had time to become identified in interest and feeling with us. There are two modes of securing the identity of persons coming among us with our institutions. One is by interest and the other by ties of attachment and sympathy. The committee on the legislative department struck out the property qualification; they declared it unnecessary that there

should be any pecuniary interest to secure fidelity in the exercise of suffrage. All idea of claiming fidelity by identity of pecuniary interests, they considered obsolete. If that be the true republican doctrine, be it so. What remains? We have no guarantee as to pecuniary interest, as not one dollar may be involved in the right of individual suffrage. Persons who never expect to acquire among us property, and who came from States hostile to our own, may participate with us in the government of the State. What other guarantee have we? Attachment and sympathy! How are these to be created—in a day, month or year? If persons who feel attachment to their native soil, their birth place, where they have passed their youth, come here from Massachusetts, Virginia, Rhode Island, can they divest themselves in one year, six months, from the influence of the particular institutions with which they are familiar; from the influence of education, prejudices?

Can an inhabitant of Massachusetts, who removes among us, regard slavery in its true light? will he submit to the perfect tolerance of religions, so remarkable in our community—not the result of law—but the result of public opinion? It must be presumed that the attachments he has formed in his former home will preclude him from imbibing, at once, a relish for our institutions. If he resides for years, he may acquire that attachment, and lose his original prejudices. But I would not trust any one who would say after only one year's residence in a country that he loved, that country better than the one from whence he came. If he loved not the country that gave him birth, and could so soon forget it, he was not to be trusted—I do not trust such an attachment. "No man can say that his second love is stronger than his first." If we cannot better the systems of other States, why attempt it? Why introduce crude and novel principles?

The gentlemen from Rapides (Mr. Brent) had said that if we place the residence at five years, it was a retrogade movement. Does he call it a retrogade movement to throw guards around our institutions and protect our liberties? But he sustains the motion to insert one in the blank requiring residence. The old Constitution fixes it at two years. To make it one year, surely is a retrogade movement

I would have no objection, if I knew what were the qualifications for electors, and provided they were adequate to make them correspond with the qualifications for members of the legislature. But if the qualifications for electors be loose, then it becomes more essential to be strict in reference to the qualifications of those who administer our laws.

I shall certainly vote for a longer period than two years: five years is the extreme that I would go, and I am not prepared to say that I will go that far.

Mr. Ratliff considered it necessary to a proper discharge of the duty he owed to this body, and to his constituents, to state his views upon the subject under consideration. He had voted against striking out the provision requiring two years' residence. It had worked well in the old Constitution, and had satisfied every one. He had been active and prominent in getting up this Convention, but he had never heard any complaint of that particular provision. He was very willing to have left it untouched, but if he were to vote for a change he would sustain the motion of the gentleman from St. Mary's, (Mr Splane) to make the residence one year. The property qualification was odious with the people, and had been disregarded. In support of this opinion, he (Mr. R.) referred to a case in the House of Representatives when he was a member of that body, and a member of the committee on elections, with a distinguished gentleman now in this Convention. The seat of one of the members was contested for the want of property qualification. The committee would not inquire or notice this allegation, nor would the House.

To show the futility of insisting upon the requisition of age among other considerations, Mr. Ratliff alluded to the fact that both Mr. Clay and Mr. Randolph were elected and took their seats before they were twenty-five, in the congress of the United States; and when some inquiries were made of Mr. Randolph as to whether he had attained the requisite age, he replied, "go and ask my constituents."

Let us inquire, said Mr. Ratliff, under what particular circumstances the Constitution of 1812 was adopted, which conse-

crated the provision of two years residence. Louisiana had not long emerged from the Spanish and French dominions—about nine years only—and Florida, which was subsequently attached to Louisiana, was still under the control of Spain. It was supposed that some unkind feelings existed. The cantonments in Florida were still kept up, and it was as easy to descend and go to Louisiana, as it is now to go to Texas. The day has gone by when there is any danger growing out of a difference in population, to guard against. We have become a united people.

He did not consider that there was any danger of electing any one who was not entirely identified with the interests of the State by some years' residence; but suppose, said Mr. Ratliff, that some man of very distinguished abilities were chosen to the legislature, would it not be an evidence of his popularity, and of the confidence of the people in him. There was no likelihood that any abolitionist would be chosen. No abolitionist would sneak into the affections of the people, for his abolition would stick out at least a foot. If the period were less than one year, there would be no danger. Suppose that any one of those distinguished men, Calhoun, Tyler, or Silas Wright, were to remove to Louisiana, would any one object to see them elevated to the legislature of this State? Would not the friends of Henry Clay be proud to see him there? And the friends of Tyler, would they not be proud of his talents; would not those of Calhoun shout to see him enrolled a citizen of Louisiana, and his transcendent talents at the service of the State?

The people, said Mr. Ratliff, are honest, and are not to be deceived by renegades. The delegate from Opelousas, (Mr. Lewis) appeared disinclined to confide in the people. I think his views are wrong.

Mr. Ratliff concluded, by an earnest appeal against five years. He regarded it as aristocratic to fix upon so long a period, It was knocking down the pillars of the social fabrick.

Mr. Mayo opposed the proposition for five years, and referred to the several constitutions of the other States of the Union, to show that nothing so restrictive and partial was any where to be found.

Mr. Claiborne was not very solicitous that the period should be fixed at five years, What he considered of vastly greater importance was, that the qualifications of the electors should be properly defined by sufficient residence. If this were done, the utmost latitude might be given to the electors to choose without restriction or qualification. The voice of those having a real interest in the State being alone heard at the ballot box, it would result that they would not send improper persons to represent them.

The question upon Mr. Dunn's motion for five years was put, and the following was the result:

Yeas.—Messrs. Aubert, Beatty, Bourg, Briant, Brumfield, Burton, Cenas, Claiborne, Conrad of N. O., Conrad of Jeff., Couvillon, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Sellers, Stephens, Taylor of Assumption, Voorhies, Wadsworth, Winchester, and Winder—32.

Nays.—Messrs. Benjamin, Brazeale, Brent, Cade, Carriere, Chambliss, Gulbertson, Downs, Garrett, Humble, Hynson, Ledoux, McCallop, Marigny, Mayo, O'Brian, Peets, Porche, Porter, Prescott, of St. Landry, Prescott of Avoyelles, Preston, Ratliff, Read, Saunders, Scott, of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Trist, Waddle, and Wederstrandt,—32.

The President gave the casting vote, and decided the question in the negative.

Mr. Lewis then moved to fill the blank with four years, and called for the ayes and nays.

Yeas.—Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cenas, Claiborne, Conrad of Jefferson, Conrad of Orleans, Couvillon, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Lewis, Labauve, Legendre, Mazureau, Prudhomme, Pugh, Roman, Saunders, Sellers, Stevens, Taylor of Assumption, Voorhies, Wadsworth, Winchester, and Winder—34.

Nays—Brazeale, Brent, Cade, Carriere, Chambliss, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McRea, Marigny, Mayo, O'Brian, Peets, Pouche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Soule,

Splane, Trist, Waddil, and Wederstrandt —31.

So Mr. Lewis' motion prevailed.

Mr. Voorhies moved a further amendment by inserting in the seventh line, after the word election, "and in case he be a naturalized citizen, the time of his residence shall be computed from the date of his certificate of naturalization."

Mr. Voorhies said that, in submitting this amendment, it was not necessary for him to say more than that this object was to place the naturalized citizen and the natural born citizen on a perfect equality.

Mr. C. M. Conrad suggested that the amendment would come in better as a provision after the eighth line.

Mr. Lewis asked for its adoption.

Mr. Downs said he had a few remarks to make in relation to this amendment, and had he supposed that the previous restriction would have been carried, he would have taken occasion to have urged the objections that weighed upon his mind against it. Half an hour ago, (said Mr. Downs) the gentleman from New Orleans (Mr. Conrad) denied that any intention was entertained by him or those in whose views he participated, to retrograde. If it was a problem, then, I think, said Mr. Downs, it is fully solved now. It would seem that a large number in this Convention, of which that gentleman is one, are disposed to retrograde instead of progressing. When I say they are disposed to retrograde, it is not without reason, since the opinions of some of them, at least, are less liberal now than they have heretofore been. For example, the gentleman from New Orleans (Mr. Conrad) and a distinguished member from St. James (Mr. Winchester) were, in 1841, both members of the House of Representatives, when the bill contemplating a Convention from the Senate was cut up in the House; and, yet, this old provision of the Constitution, requiring two years residence, was left untouched. In the Convention at Jackson, the chief feature of this identical section, making two years' residence essential to eligibility, appeared to meet with no opposition from that quarter, nor was it objected to in the counter report. It would, therefore, seem that since last August a less liberal spirit prevails in relation to this matter, and that I consider a retrograde movement!

Is this the advancement that the people of Louisiana are to expect? They anticipated more liberty, not additional burthens! They desired less restriction, that the bonds, the fetters, that have been thrown around them should be taken off.

I do not concur in the Utopian proposition that there should be no restriction as to sex and color, but I do think that great discretion ought to be left to the voters—and that there should be no clogs or bars to the right of the people to choose whoever they please to represent them.

The delegate from Catahoula (Mr. Mayo) had shown conclusively that none of the States of the Union required so great a restriction.

It was unfortunate to keep up prejudices between Louisiana and her sister States. The existence of certain prejudices had done much to retard the increase of population in this State, and, consequently, had materially affected her prosperity. The simple fact, that Louisiana had adopted the parish judge system, had kept away thousands of persons—emigrants crowded in upon the line dividing Arkansas from Louisiana as thick as bees: they even cultivated land in Louisiana, but they kept themselves out of her jurisdiction. Another prejudice that was unfounded, and which had also a beneficial tendency, was that against the civil law. Our civil laws have been modified and the result is, a better system than prevails in the other States. But the prejudice is already excited, and we should do nothing to increase it. If our institutions be only liberalized, many persons of wealth will remove to the State. What will be the disappointment of all such, if instead of pursuing a liberal policy, we should adopt one more restricted than that of the old Constitution? That in place of requiring two years residence, we require five. And it is not in relation alone to naturalized citizens, however imprudent and indiscreet a policy of exclusion towards them would be, that the effects of this course will be felt. It will apply to native citizens of the other States—to those who have every identity of feeling and sentiment with us for our common country. They too will be debarred by this narrow proscription and prejudice.

What, asked Mr. Downs, would have been the result if Congress in 1803 had

passed a law inhibiting emigration from the other States into Louisiana; or to have shackled it with such restrictions as to have made it impossible for emigrants to have settled among us? Suppose that such a principle had been incorporated in the Constitution of 1812? What would have been the result? Where would have been the wealth of New Orleans? Instead of counting one hundred and fifty thousand inhabitants, it would not have numbered over forty or fifty thousand. Instead of a city above Canal street five times as large as the original limits of New Orleans, nothing would have been done, and we would not now see those magnificent edifices where once stood stagnant pools of water. Where would have been the activity and energy for which this city is so conspicuous? Houses have multiplied, and capital has found a thousand sources of profitable investment.

Mr. Downs further argued that the provision in the Constitution requiring two years residence, had been in existence thirty-two years, and had not produced the slightest detriment to the State. In all that time no one had been elected to office who did not possess every reasonable guarantee.—Where was the use of establishing an exclusive principle? Surely the veteran sons of Louisiana did not seek it. They were not afraid of coming in competition with the talents, energy and industry of their fellow-citizens from the other States. Why impose a condition not required by the other States?

The amendment offered in relation to naturalized citizens presented the same narrow and contracted spirit. It was unworthy the genius and liberality of Louisiana.

Mr. Downs concluded by hoping that if no improvement in accordance with the spirit of the age, tending to liberalize this part of the constitution was intended, that it would be at least left untouched; and that if we could not advance, we would not go back and travel down hill.

Mr. Marigny said he rose to oppose the amendment presented by the delegate from Attakapas, (Mr. Voorhies) and he hoped it would at once be rejected. He could not comprehend under what aim that amendment could have been presented. He could make no distinctions, and would never distinguish insidiously between naturalized and native born citizens. By this amendment, the naturalized citizen was singled out, and made to undergo a probation of nine years, that is to say, a naturalized citizen would be excluded for nine years. For to the five years prescribed by him to become a citizen, four years were added after his naturalization. It was most oppressive, without example, and without antecedent!

An honorable member (Mr. Ratliff) had referred to several of the great men of this country, who were natives of other States that would be excluded by this provision for four years, from aspiring to office were they to come to this State. Such men as Calhoun, Clay and Wright. He (Mr. Marigny) would ask members to look back on the past history of this State, and see who were among the most eminent in the Senate, on the bench, and in other high and important functions? To whom was Louisiana deeply indebted? Was it not to Porter, to Mazureau, to Petot, to Durbigny and others, all of whom were born in foreign countries? Who was it that compiled our code, and who has been one of the best expounders of the civil law? In this Convention he (Mr. Marigny) disclaimed being whig or democrat. He considered that the restriction of nine years amounted to total exclusion. It was a man's life.

He would ask what was the difference between a man coming from the other side of the ocean and one coming to us from the North, tinctured with the doctrine of abolitionism? The latter returns back in the summer to his home, whereas the former, who has quit his native country because he dislikes the institution of monarchy, remains among us—becomes identified, and voluntarily submits to the perils of the yellow fever baptism.

He was indeed astonished, amazed, that so distinguished an advocate of democratic principles as the gentleman from Attakapas—one so liberal in his views, should have offered such a proposition. It was toryism, all pure! For himself, he (Mr. Marigny) could not forget the services that have been rendered to the State by naturalized citizens, and could not consent to exclude others of that class who were no doubt as patriotic and intelligent. He trusted that the gentleman (Mr. Voorhies) that

offered the proposition was laboring under some misapprehension upon the subject, and that it would be withdrawn. If it were not withdrawn, he confidently hoped and expected that it would be unanimously rejected.

Mr. Lewis said that inasmuch as his friend from Attakapas who presented this proposition, had not risen to reply to the arguments urged against it, and no one was more competent of doing so than that gentleman, he would briefly explain what were his views in relation to it.

He had heard nothing to justify the hopes of the gentleman that last addressed the Convention, (Mr. Marigny) that the mover would withdraw the proposition. He had heard nothing to sustain the strenuous opposition that has been made to it.

The gentleman from Ouachita (Mr. Downs) had argued against the proposition, that it had established an odious distinction. It was called an odious distinction, because, as had been charged—if he had not heard it so qualified in this body, he had heard it elsewhere. Native born citizens were entitled to no more consideration than foreigners, for the matter of birth was purely accidental and conferred no claim; that one legislation should be different for one and the other.

He would make a few remarks in relation to this proposition—the principle was the same as would come up upon another question, upon which, if his health were spared, he designed presenting his views more at large.

It will be attempted to be shown that foreigners just landing upon our shores, and coming from the very hot-beds of European despotism, should be allowed equal facilities of voting at the ballot-box with the native born citizens, or those identified with the State by a long residence, and by a community of attachments and interests. The question naturally arises, whether this ought to be tolerated, or whether it ought not to be tolerated.

There was a marked difference between this and the old world. He would not now enter into a discussion of the subject.—We should seek to elevate the character and promote the permanent welfare of the State, and it is necessary and proper that the native born citizen should at least, be on an equality with the foreigner from other lands. If a citizen of Mississippi, under this provision, were to come into the State of Louisiana, he would be under the necessity of remaining five years before he would be eligible to a seat in the legislature. And yet that citizen belongs to a State that is an integral portion of our Union. The foreigner is under the protection of the consul and flag of his country; he is not amenable to, and may claim exceptions from our laws.

I know, said Mr. Lewis, a respectable gentleman who has been twenty-five years in this country, and has never sought to be naturalized. He is a subject of Louis Phillippe—and he has a right to sue in the federal court, and that right he exercised by having a suit that was instituted against him transferred to that tribunal. Suppose a declaration for citizenship had been made twenty years ago? The proof, attestation and inscription are all that would be necessary to convert the applicant into an American citizen at once.

Mr. Lewis declared himself opposed to the present naturalization laws; but he was for respecting them as long as they existed. There should, however, be an equality under those laws between naturalized citizens and native born citizens. If native born citizens from the other States of the Union are required, from reasons of sound policy, to remain among us five years before they are eligible to public offices, at least equal restrictions ought to be prescribed in regard to foreigners who may become naturalized. A native citizen is always subjected to the laws of the country, and is obliged to bear his share of the public burthens. Not so with the foreigner. He may exempt himself from our laws and remain under the laws of his own country. In the mean time, he may make his declaration to become a citizen, and when it suits his convenience, or his interests, he may go through all the forms in a few moments, and at once become eligible to office, while a citizen of Mississippi, coming into this State, is compelled to work on the public roads and perform militia duty, during the time he is acquiring a residence amongst us, and from which the foreigner is exempt. Now, the object of the proposition under discussion, is to prevent this inequality, and to place the native born citizen on an equality with those who are natural-

ized; but not to allow the latter any advantage over the former.

If he arrive in one of our sister States, and is naturalized there, then from the date of his naturalization, he is placed on an equality with the native born citizen of that State.

A great deal has been said to disparage those feelings of patriotism which are national and incident to our birth place: whatever may be urged to the contrary, I have great confidence in those feelings, and I would not trust a man who was callous or indifferent to them.

I cannot consent that there should be any distinction bearing exclusively upon the native born citizen, and that the foreigner, as soon as he perceives a vacancy in our legislative halls, and, before the ink be dry upon his naturalization papers, may thrust himself into the vacancy, while a native born citizen would have to remain five years, and be subjected to all the duties and all the liabilities of citizenship. This is exacting too much, and not affording a sufficient guarantee for our native citizens.

Mr. Preston said: Notwithstanding all that has been said to the contrary, I think this Convention was called to abolish many existing restrictions upon the political rights of our fellow citizens, and not to impose new restrictions upon us. All those who struggled and clamored for a Convention, did so for a Constitution more liberal to all men—those who opposed it, were content with existing restrictions.

I do not believe the majority of the people of this State, in calling the Convention, wished to extend the enjoyment of the utmost rights and privileges of man to every white man in the State, that could be enjoyed without danger to the State. The property qualification of the voter, by universal consent, is denounced and abandoned. The disgraceful spectacle, of the basest prostitute, enabling the bully of her brothel, (I see no ladies in the room) to exercise the right of suffrage, while the poor supporter, by his labor, of his lawful wife and children, is constitutionally deprived of the inestimable right of participating in the government of the country he is obliged to defend with his life, will never be witnessed in Louisiana again.

But now our fellow-citizens of other States must be disfranchised two years because they chose to cast their lot, as most of us have done, within the limits of our State. Emigration has made our lands valuable—our State rich and powerful—and, in every respect, improved the whole condition, physical and mental, of our population, and will continue to do it, in a geometrical progression. The property qualification greatly retarded it, and Alabama, Mississippi, Ohio, Indiana, Illinois, and States admitted long after us, have far outstripped us in the race of prosperity and population, although our soil and climate, and commercial emporium, presented advantages far superior to any they possessed—,will not say the restrictions of our Constitution and laws have entirely produced the result; but they have had great effect in retarding our progress, as is conclusively proved by the facts stated by the delegate from Ouachita, that the country is filled by settlers, and blessed by all the comforts of family, north of the geometrical line which separates us from Arkansas, while population is sparse on its south side. The reason is, that men will not stop where an invidious distinction is established by law between them and their fellow men. They would sooner go on to Texas. "Let them go," I hear spoken near me. I say, No. Let them stop on our prairies—reclaim our swamps—bring into productive operation, of some kind, our pine woods—enrich and strengthen our State, and enable her with as great an area as any other State in the Union, to keep pace with her sister States in wealth and population, and strength and education, morality, and every thing that makes a State.

We have lived under the Ægis of the old Constitution for thirty years, which admitted our fellow-citizens of sister States to all the rights of freemen, after a residence of twelve months. Can any man say experience has proved this liberal principle deleterious to the State, or that our safety requires its repeal? If, on the contrary, it be a feature in our constitution, venerable by its antiquity, endeared to us by its benificence, for I, and every emigrant citizen, have enjoyed the hospitable reception it extended to us, let us cling to it as a benefactor and not repudiate it as an enemy.

The Constitution of the United States in prescribing that the citizens of each State

shall have all the rights, privileges and advantages of citizens of the other States, indicates the principle, that if possible consistently with our safety, we should extend to our fellow citizens of our sister States all the privileges we enjoy ourselves.

Our government is the government of one country, and therefore every citizen of a sister State should feel the State as much his home as his native State. We do feel at home in other States, when we go there As our sister States require but a single years residence of us to entitle us to the right of suffrage, we should be equal at least to our sister States, in liberality and reciprocity.

The principle of requiring long residence is erroneous. It is based on excluding many, depriving them of rights, treating them inhospitably, in order to guard against a very few, supposed to be vicious and dangerous to our State. We should, on the contrary, encourage all, and at least grant them their rights, and guard ourselves by legislative means against the injuries the few might inflict, punishing those who offend for their misconduct, and not all, whether they offend or not, lest some might do so to our prejudice.

Believing that the provision of the Constitution can be retained without danger to our State, I will endeavor to show that not more than one years residence in our State should be required, in order to enable a citizen of any other State to acquire a residence in this State, and exercise all the rights of a citizen thereof. And first, it is sufficient to establish residence. A year is the period fixed by Heaven in which man experiences all the vicissitudes of heat and cold, the life of spring and the death of autumn, in which he plants and gathers and enjoys the fruits of the earth. The period for which contracts are generally made, and in which they are to be fulfilled. A years permanency in one place is evidence of a man's intention there to fix his residence, because he has finished there a period in time. It is ordinarily considered among men, that having resided a year in a place a man is a resident, and that he has lost his residence elsewhere. It is *prima facia* evidence of this fact, and should be considered proof of the fact by reasonable men, until the contrary appears.

When therefore a man proves himself by such evidence a citizen of our State, what reason can there be for depriving him of the rights of citizenship?

We should accord the rights of citizenship to such a citizen, because every other State in the Union accords those rights to the citizens of Louisiana after a similar or shorter residence, except the State of South Carolina; and some of the States after three months residence within their limits. The burthens a man has to bear, commences with the very first year of his residence in our State. A man who has resided here a year we tax, if he has taxable property, or pursues taxable occupations. He works on the roads, and is required to perform militia duty, and serve on patrols. He is liable to defend the State by personal peril and services. By personal labor during a year he contributes his mite to the prosperity of the State. Man is naturally gregarious, and cannot live a year without affections, pleasures and social connexions, and in less than that time becomes attached to the country, and persons and things in it. He would be entitled to vote on the presidential election in the State whence he came, and would be entitled here, but that he is restricted by the constitutional provision proposed. Thus we positively deprive him of a political right, merely because he moves to our State. Yet he is a citizen of our sister State, the descendant perhaps of one who had done much for our country in the field, or the senate. He is habituated from infancy to love this whole country and institutions, and now interested to devote that affection to our State, because he located among us. Attachment to country being equal, is he less capable of performing the duties of a citizen than one of us. This depends upon his education and the society in which he has been reared. Now in other States of the Union they have means of education, and improve them equally with ourselves; and whoever lives there imbibes principles and attains information equal to that which we possess.

Our extremely fertile lands and genial climate attracts to our State a rich planter from Mississippi, Alabama, Georgia, or the Carolinas, with his family and slaves. There are a great many such in the northwestern parishes of the State. Far more would come and embrace all the advantages that are held out to us, if our Consti-

tution and laws invited them. Is there any reason why such men should pass through a probation of more than one year before they are enabled to enjoy the political privileges which we possess?

But I will suppose what is most generally the case, that citizens of other States come without means, but with honest hearts and strong arms, or with education and talents to invest, and exert this capital in our State. For the hands that nature has given us, and the talents with which she has endowed us, is capital, and most productive, and constitutes a most valuable accession to the State. For there are vast fields still vacant for all hands that choose to be employed within our State. Our agriculture is in its infancy. The sugar and cotton lands are far from being all occupied. As to provisions our production is limited, compared with the vast resources of the State. The ground is unoccupied and unimproved. There are other and valuable productions for which our soil and climate are undoubtedly suited, which have not yet occupied our attention: I mean silk, and wine, and oil. Our climate is suited to many rich fruits, if properly cultivated. In the manufacture of the thousand articles for domestic and other uses, we have not yet made a commencement. Our commerce, which will soon be first in the Union, is carried on almost exclusively by the citizens of other States. We are young in the vast ramifications in which industry might be most usefully and productively employed. We should court and attract population, instead of repelling it by restrictions, which exist nowhere else.

Now, if the rich emigrate with their slaves to settle and improve our rich soil and render it productive, principle requires they should have a voice in selecting the officers of government, whose action is to regulate their property, and no apprehension of danger requires a duration from principle. He who has but his industry to invest in the productive labor, and in the rich rewards of enterprise which our State presents, has his person, his liberty, his character, and his prospects to be protected and advanced by government. These are as invaluable to him, and even to the State, as property to the rich: and therefore he should have a voice in enacting and executing the laws on which all that is dear and invaluable to him depends. If we cannot accord this right to him without danger to ourselves and State, then refuse it. But who can lay his hand on his heart and say he apprehends danger to our State or to himself by allowing our fellow-citizens of our sister States equal rights with ourselves, after residing a year in our State as a citizen thereof? The liberal and generous mind sees in their incorporation with us, with all our rights, all the certain advantages to our State to which we have alluded. While the supposed dangers are but the airy dreams of imagination, which no one really feels, or believes will ever be tangibly felt.

This city, which is the great point of connexion between the produce of the western world, and the eastern continents, and southern island. Its commerce is destined to be boundless in amount and extent. True statesmanship indicates to us, to further by all means in our power, that destiny in our day and generation, not to retard it. It can be greatly advanced by encouraging our fellow-citizens of every State to embark with us in its vast commerce, with equal rights, priviledges and advantages. And by encouraging the good feeling which would result from such a course, we would eventually command unbounded influence over western America, in policy, morals, education, manner, and every branch of civilization. The seaboard in all countries and ages has governed the interior by example and influence, if wise and worthy of imitation. We would also, by intercourse with every part of the world gather that which was valuable in every branch of civilization, even at our antipodes.

We may greatly retard these brilliant results by throwing impediments in the road of those adventurous spirits who come to this emporium, to embark on the sea of enterprise which it presents, and creating invidious constitutional distinctions between the new and old inhabitants of our State, prejudicial to the former. I fear that such invidious and odious distinctions and legislation of a similar character growing out of it, by impeding the emigration of the friends and connexions of those who have settled and accumulated fortunes in our State, has and will continue to induce many of the latter to retire to other climes and countries, with their wealth, to enjoy with it, in the

evening of life, the kindness and affection which grows out of the ties of nature.

It was suggested that we should have the guarantee of two years residence, against the spirit of abolitionism with which new comers might be imbued. A year is enough to enable his neighbors to turn any man's views on this subject, and guard against them, if dangerous to the State. It is sufficient too, to enable the new comer to see that the well regulated state of slavery in our State was indispensable to the happiness of the slave, the prosperity of the State, and safety of the white population. Every man capable of taking a correct view of our civil society, would wish to see a million instead of three hundred thousand black slaves in our State. Deprive any considerable portion of our population of political rights, and in this respect degrade them to the condition of the slave, and you will make the evil of slavery dangerous by exciting the sympathy of a portion of the whites. But elevate every freeman in the State to an equal participation in its government, and make that broad political distinction between him and the slave, and you will raise a wall of fire kindled from the united souls of freemen, around our State and her institutions, against the diabolical machinations of abolitionism.

And while on this subject of security, I will observe that there is employed in carrying on our commerce and intercourse with the western States, the best organised and physically powerful army that ever appeared on the face of this globe.

Under the benificent provision of our existing constitution, striking out the odious property qualification, a sufficient number of these defenders of our country would declare their residence on the shores of our rivers, in the suburbs of our city, in our fertile soil and genial climate, and there plant their wives and chrildren, all their affections and hopes, and future prospects; a sufficient number I say, to ensure a fellow feeling in the whole army, and ensure the united arms and souls of all, in our protection and defence against external invasion and internal insurrection, and render our frontier State and out-post city as secure as the apex of the Alleghany.

When our city and State in their infancy were really endangered by invasion and exposed to domestic insurrection—when a powerful foreign army were on our soil, at our very firesides, their cupidity and brutality stimulated by our beauty and booty; when every thing that clings around the core of a man's heart was staked upon the point of his sword, did you then enquire of your brethren of other States, the brave Tennessean, Kentuckian and Mississippian, if he had resided two years on your soil, to insure his fidelity in danger, or did the glorious title of American citizen impel them and you to mingle your blood in a common stream and struggle for the foremost rank in our glorious deliverance from danger, when American soil was invaded.

Let us affect no fears of our fellow-citizens of the Union, for political purposes in the calm tranquility of peace, which we did not feel in the hour of peril, and with open hearts receive our fellow-citizens of our sister States, and admit them to all the rights and advantages we enjoy. And when the storm of invasion and danger shall again beat at our doors, they and their friends and connexions will again cheerfully rush to our rescue, and our future and common triumphs will be as glorious as that which is already inscribed on the the brightest page of our history.

Mr. Voorhies said, the range which the debate had taken upon the simple, and as he conceived, just proposition which he had offered, necessitated a few remarks from him. They were due, as well to explain the motives that actuated him here, as to define his position to his constituents. He was a Louisianian, and could safely assert that he was attached to the interests of the State, as well as to her enduring prosperity. Nor could it be said that he was favorable to any restriction which the sternest necessity did not imperiously require. He was for the most indiscriminate freedom, consistent with the true interests of the State and her peculiar position. Those who knew him were well aware that he entertained no prejudices against foreigners, and that he was liberal in all his political feelings.

The design of the proposition he had offered, was only to apply to the future. He was for leaving all upon an equality, and to deal with all upon a strict principle of justice. He thought the destinies of the State were safe in the hands of her children, of those that were intimately identified in feel-

ing, and by attachment with her. He thought that our community were sufficiently intelligent; that they possessed sufficient talents, sufficient virtue and patriotism, to administer the government of the State.—But he was not for that against foreigners, nor did he desire to interfere with all the privileges which our institutions guaranteed to them. He merely wished that our institutions should not be recklessly committed to strangers—persons who had but just arrived among us, who were unacquainted with our habits, with our pursuits—from assuming the prerogation of government. His proposition was to extend to none who were American citizens, be they native born or naturalized, but to place them on a perfect footing of equality; and only to require that they should reside some little time among us—that they should have an opportunity of comprehending the spirit and genius of our institutions, before they should be placed in our legislative halls, and invested with the extraordinary privilege of making our laws, and giving destination to our property.

He disclaimed being actuated by any spirit of illiberality—he was influenced by no narrow-minded or contracted prejudices. The provision was general. It applied to all American citizens who may hereafter be disposed to cast their lot among us, and it required them to reside four years among us before they would be eligible to offices of high trust and great responsibility. The perpetuity of our institutions demanded that we should have some guarantees, and he did not conceive there was anything extraordinary and unfair in entertaining some control over the administration of public affairs.

It was a source of deep regret and painful mortification that our naturalization laws were perverted to gross impositions and abominable frauds.

A correction should be applied somewhere; and inasmuch as there was nothing efficient to preclude those abuses, which every one admitted, it behooved us to take such action as the necessity of the case suggested, so as to prevent, or, at least, to lessen the evils to which we were exposed.

It was consonant with sound reason and good policy, that we should seek to protect the permanent interests of the State and of her permanent population.

What had fallen from the delegate from New Orleans, (Mr. Marigny) that to do this was illiberal, and suggested by principles of toryism, was idle. The principle he (Mr. Voorhies) had introduced was common to all. A foreigner among us was under the protection of his flag, and was exempted from all the burthens imposed upon our citizens; if it was his intention to become a citizen, and he complied with the laws of naturalization, all that was asked of him was to undergo the same residence required of natural citizens from our sister States. There was surely no cause for him to complain. There was nothing odious or illiberal in the requisition. It was not intended that we should be under the control of a mob of foreigners who do not understand our institutions, and were, perhaps, inimical to those institutions. The proposition was founded on reason and justice, and it was to be hoped that it would prevail.

Mr. C. M. Conrad rose to correct a mistake. The member from Jefferson (Mr. Preston) had said, that, although unfortunate yesterday, in some of his statements, he ventured to say, and he asserted it as a positive fact, that there was not a State in the Union that made such a distinction as that embodied in the proposition of the gentleman from Attakapas. Now, if that delegate will refer to the constitution of Maine he will find that in the State of Maine citizenship for five years is required. In Georgia, a naturalized citizen must have been admitted nine years before he is eligible to the senate of that State and seven years before he can be eligible to the house of representatives.

Mr. Grymes said, that this debate had begun before his avocations had permitted him to be present. He presumed that the minds of most members were made up how they should vote. He rose on this occasion to express his opinions. But he did not apprehend that they would have the slightest weight. For his own part, his course was decided, and he would briefly state the reasons that influenced him upon this question.

He considered that matters of public policy of vast interest and importance were involved in it, and it did appear to him that the grounds upon which it was placed, particularly the delegate from Jefferson (Mr.

Preston) were not such is he could approve or coneur. They may, possibly, have their weight; but he could not comprehend how the Convention could be placed in an antagonistical position with the people. That stringent measures should be adopted by the Convention, in direct conflict with the mandate of the people. He would ask the delegate from Jefferson where was the sovereign power, if it be not in this house? Is it any where else? The people, in their primary and original capacity had delegated all power to their representatives in Convention, and when the sovereign speaks, it is by our mouths.

He did not believe the members of this body would be influenced by the argument that the sovereign people and the Convention were in a conflicting attitude—one seeking to restrain, and the other shrinking from that restraint.

We are, said Mr. Grymes, the sovereign people themselves. The question before us is one of political expediency. The gentleman from Jefferson argues from the exception to the general rule.

Why fly off to particular instances, to which we may accord one individual assent. If we adopt the exception, does it prove the general rule? Does it prove that it may be applied to all nations? In one breath we are told of discord, and in another of dissolution.

The delegate from Jefferson tells us that we are so poor in the arts and sciences, that we must get down upon our knees and entreat Europe to pour her stream of science upon us. He conceives that we are so perfect that we can take the exception and leave the general rule to our poorer sister States. This argument can have no weight. The harmony and peace of the community rest upon sound general principles, and not upon exceptions. This aberration is not to be deprecated. There is not a principle extended, by the gentleman, to local or general cases. He takes the line of his departure by throwing away the anchor of our safety, and then relies upon miserable exceptions.

What are the positions of the delegate? I will take them *seriatem*. If foreigners are not made eligible to the legislature, this exclusion, if maintained, will deter them from coming among us.

Surely there is no falling off in the tide of emigration, and it bids fair to continue to sweep over our land. It pours upon us in unprecedented numbers, and we are forced to the conclusion, that it is not the immediate privileges which are accorded —the advantages of participating in our institutions, that is the predominant motive that brings them to our shores. I repudiate the true advantage of participating in our institutions, for I hold it no advantage to be exposed to the turmoil of our elective system. But, says the gentleman, we want these people to teach our children, to disseminate among us the arts and sciences. Will the gentleman mention the case of a single individual that has been abstained from quitting the European side of the Atlantic because there was a restriction or a prejudice against elevating him on his arrival, to the legislature? Is there any school master who has been deterred from quitting the western side of the Atlantic, because, forsooth, he could not be a legislator on his arrival? The tide of emigration shows that no such inducement is necessary? Nor have I ever heard that any such school master, or any profound scholar, has ever retired to Europe because he could not assert his right to be eligible to the legislature.

I have not the statistics to show that the United States, as the recepticle of the great European hive, bids fair to monopolize the greater proportion of that redundant population. I would not restrain them from coming to us; but it is evident and palpable that the tide is so tremendous, that every acre of land will be brought into cultivation. And when undiscovered lands shall have been found, new hordes will emigrate to them. We may have an irruption of the inhabitants of Central Asia, of Affghanistan, and of the Hindoos; and if they cut down and fell our forests, without attempting to regulate our institutions, we will be fortunate indeed!

It was a fallacy to imagine, that a participation in our institutions was a source of any great anxiety among those that come among us. It was by no means the inducement that led them here.

But let that be as it may, it is clear to my mind that the United States have a right to consult public policy, either in allowing unlimited, or in restricting the conditions. I will state without circumlocution what I think of that point.

The United States is the property of her citizens, who have a perfect right to enjoy exclusively the liberties and privileges belonging to her institutions — the heritage bought by the blood of their ancestors.— They have fostered and perfected those institutions, which are our own. If we chose to call others to participate, well and good.

I would go as far as the most ardent philanthropist. I would say, it is true we have planted this tree of liberty; we have fostered and reared it, until its branches are sufficient to shelter both you and us. But for God sake don't hack and destroy the tree; don't interfere with it, but let it remain as it is! Let it be under our charge, until you shall have acquired sufficient experience to tend it.

The knowledge of our institutions and their peculiar operation, can only be acquired from some years experience. It is only after a sufficient lapse of time that the new comer can be presumed to have formed any permanent attachments, or to be sufficiently imbued with our political rights and liabilities. As to the notion that all this is intuitive, and that the human mind is unerring in its comprehension of the principles of popular government, that is a wild vision of the brain. It cannot give a conception of the apparatus of our government, which must be learnt by foreigners from actual experience, but which we imbibe with our mother's milk. I never will believe any such a thing, if I were to live to the days of Methusalah.

We have a good Constitution, a good government, exclusively fostered by the sweat of our brow and the blood of our veins. We have a right to admit partners or refuse to admit them. And are we employing too much severity towards strangers to insist that they wait a little while, and watch the operation of our system—that they study the character of our people. When the schoolmaster or other learned person, that the gentleman from Jefferson would have to come among us from Europe, to enlighten our ignorance, arrives, and we place ourselves or our children *under* his charge, what would be his astonishment if, after he had learnt us our A. B. C.'s, we should turn round and say to him we know more than you do, and can teach you? Would it not be as arrogant for a foreigner, a stranger to our institutions, that had just arrived among us, to tell us that he comprehended them better than we did, and that he was going to remodel them for us. His science might be vastly superior to our own, inasmuch as he came from Europe, but we might prefer another kind of knowledge, and not be willing to be so preceded in our just authority and control. We belong to a race with whom liberty is indispensable. Our institutions are free, and we are as free as air.

I am decidedly in favor of a certain period of probation for those who come among us from foreign countries. They should serve some little apprenticeship to understand our institutions, to get rid of their prejudices, and to form some permanent attachments. There is a great deal of nicety in our government—the boundaries are imperceptible, and a foreigner might be treading on the toes of the Constitution without knowing it was there. It would be a mystery to him. As to a stranger understanding our institutions intuitively, it was no such thing.

The question was taken on Mr. Voorhies' motion, and the ayes and nays were called for:

Yeas—Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Barton, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Couvillon, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Stevens, Taylor of Assumption, Trist, Voorhies, Wadsworth, Winchester and Winder, —39.

Nays—Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Eustis, Garcia, Humble, Hynson, Ledoux, Leonard, McRea, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Madison, Scott of Feliciana, Soulé, Splane, Waddill, Wederstrandt,—32.

Whereupon, on motion, the Convention adjourned.

Wednesday, January 22, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer by the Reverend Mr. Nicholson.

Mr. Ratliff, in behalf of the committee on contingent expenses, reported a resolution allowing $350 to J. A. Kelly, printer to the Convention, for work done and to be done.

Mr. Carriere introduced a resolution authorising the committee on contingent expenses to allow mileage to the clerks of the Convention from the town of Jackson to the city of New Orleans.

Mr. Lewis objected to the adoption of this resolution. The clerks were already sufficiently well paid, and allowing them mileage would entail heavy expense. If they were not content with what they received for their services, let them resign; others would be very glad to take their places. The motion to refer the resolution to the committee on contingent expenses was lost.

Mr. Lewis moved for the rejection of the resolution, and called for the ayes and nayes.

Ayes—Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Chambliss, Eustis, Garcia, Garrett, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mayo, Mazureau, Peets, Porche, Pugh, Ratliff, Roman, Roselius, St. Amand, Saunders, Sellers, Stevens, Taylor of St. Landry, Trist, and Waddil—32.

Nays.—Messrs. Cade, Carriere, Cenas, Couvillon, Dunn, Guion, Hudspeth, Humble, Hynson, McCallop, McRea, Marigny, O'Brian, Penn, Porter, Prescott of Assumption, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Taylor of Assumption, Voorhies, and Wederstrandt—25.

Order of the day.—The Convention resumed the consideration of the fourth section of the second article of the constitution, as reported by the majority, and as amended by the proposition of Mr. Voorhies.

Mr Lewis called for the adoption of the section.

Mr. Downs said: in the discharge of what he deemed to be a duty, he begged to trespass on the attention of the Convention, and to make some remarks before the question was taken, on the motion to adopt the section. Perhaps he was liable to the charge of remisness in suffering to progress so far without developing more fully than he had done the serious objections which operated against it in his mind.—But he had not anticipated that it would have been pushed so successfully, otherwise he would have insisted upon his objections.

In the remarks he intended to offer, he might speak with great earnestness—he trusted that his earnestness of manner would not be misconceived or misunderstood. He usually spoke with earnestness whenever the question under consideration involved principles of individual liberty and popular rights.

It was certainly less from an apprehension that the proposition of the delegate from Attakapas (Mr. Voorhies) which had been incorported in the section, would have much effect, than because the principle was wrong, invidious and odious, that he raised his voice against it. He felt deep regret and mortification that such restrictions as were embodied in the section should find advocates on this floor, and lest his silence might be misconstrued, he felt it to be his duty to protest against the course of policy which it was contemplated to pursue.

Strong and able arguments have been adduced to sustain the prescriptive views which are carried out so fully by the proposition of a delegate from St. Landry, requiring a residence of four years to be eligible to a seat in the house of representatives, and the proposition of the member from Attakapas that applies the restriction with greater security to naturalized citizens.—He had reference particularly to the gentleman who last addressed the Convention (Mr. Grymes.)

I regret, said Mr. Downs, to encounter such fearful odds. It seems like temerity to enter the list with so renowned a champion, and it would have been more appropriate had the task fallen to older and more experienced hands; but it was not to gratify my convenience, but to serve my country, that I am here, and feel how inadequate are my powers to resist the biting sarcasm of that gentleman. I have no other course. There is one position which that gentleman assumed, with which I cannot concur. I took no notes and do not profess to give his precise words. He said that the doctrine of a member from Jefferson (Mr. Preston) appeared designed to array the Convention against the people. I disclaim any such design. I cannot however ad-

mit that the sovereignty of the State is exclusively vested in the Convention, and that the people have no control over the actions of that body. I protest against such a doctrine.

But what does the gentleman mean? Does he mean that the Convention possesses the physical power to make a constitution? If he means that, having got into the Convention, by hook or by crook, we may forget the opinions of the people—disregard their remonstrances, and usurp their sovereignties, then I would say, that our powers are not unlimited. We should not forget that our constituents are intelligent and observant, and that if the objects for which this Convention are called are frustrated, they will hold us to a strict accountability. If we set ourselves in defiance with their opinions, we will incur a heavy penalty. He hoped no such design was entertained. For myself, said Mr. Downs, I acknowledge my accountability to those who sent me here, and if I were to violate their wishes, I would never return to them, but would go to Texas. There are some who have got into this Convention upon the strength of their pledges. Some there are who appear to exult at the prospect of defeating the will of the people, who are evidently pleased with the sarcasms that have been uttered; but they should remember that they will have to give an account of their stewardship. That if they violate their pledges and forget their sacred obligations, they will not escape with impunity. They may be flattered here, they may feel themselves omnipotent, but the day must come when they will be shorn of their powers and their honors. By what rule do they set themselves up as the sovereign people? I do not desire, Mr. President, to make any personal allusions. But I know an honorable member whose opinions on this question are certainly not those of his constituents, nor are they consistent with his former declarations.

[The PRESIDENT: Sarcasms and personal reflections ought not to be indulged in.]

Mr. KENNER: There is nothing which the gentleman has said, to which exceptions might be taken. I hope he may go on.

Mr. DOWNS: I confess that my friends and myself were almost in despair at the debate and occurrences of yesterday. The position of affairs wore a somewhat sombre hue, but upon reflection some consolation suggested itself to my mind. That although the eloquence of the gentleman from New Orleans was so overpowering as to sweep all before it, and to invest him with the honors of the day, still that eloquence would not bear the test of scrutiny: that it was brilliant but delusive, and would vanish before the broad glare of reason. I recollect that in former times and in other countries, it was sa id of one about whom the world was divided, (Charles II) that he never said a foolish thing nor did a wise one. Not that I intend to apply this remark in its full extent to that gentleman. The best things will not escape the fallacies of mankind.

I remember an incident in the early history of the country that has some application to the member from New Orleans, and which convinced me that we were not entirely overpowered. During the incipient stages of our revolutionary war, a delegation from the colonies met at Annapolis. All the great men that the country then boasted were in attendance. The rules had not yet been provided, and there was a solemn pause. Patrick Henry arose and electrified his hearers by a magnificent burst of eloquence; such as never before had under similar circumstances been heard. Richard Henry Lee, another Virginian, followed the father of American oratory. The assembly were spell-bound and entranced. The sages of the revolution were at once convinced that there were no greater men among them than Patrick Henry and Richard Henry Lee. So overpowering and astounding were their oratory, that Mr. Chase, a man of profound knowledge, and who subsequently became a Judge of the Supreme Court, stepped over to Mr. Wythe and observed, "we may as well go home, we are unable to cope with these Virginians." And so much impression did this incident make that they were both placed at the head of the most important committees. An address was to be prepared to the crown, and Patrick Henry was placed at the head of the committee. So little qualification did he possess for that duty, that he was compelled to relinquish it. The paper was drawn up by Mr. Livingston, and it was one of the finest productions that appeared among the admirable State papers of that day. These two

men with such transcendant talents for oratory, were not endowed with a turn for business. The failure became known, and Mr. Chase then observed, that if those two individuals were inimitably superior as orators to their colleagues, yet they fell far short in an aptitude for business and the faculty of putting their thoughts on paper. The practical results and tests of government have been carried out by men of little brilliancy, while those that have dazzled and shone most conspicuously as orators, have left little to impress the age with their genius or to remind posterity of the benefits they have confered. Look at two of the most splendid orators that our country has yet produced. Patrick Henry and Randolph. What great traces have they left? The few speeches that have come to us are the only monuments of their wisdom. But where are their acts? On what pages of history are they recorded? Whereas Franklin, a man of no brilliancy whatever as an orator, has impressed the age in which he lived, and in every page of history is recorded the services he rendered to his country.

I would remark Mr. President, said Mr. Downs, that if you take the proposition of the gentleman from Attakapas, in its literal sense, it impresses no restriction; it takes off the restriction of five years residence for the benefit of naturalized citizens. If they be naturalized, the very next day afterwards they would be eligible under the proposition to a seat in your legislature. That, however, is not the meaning intended.

As I understand it, Mr. President, the State has no right to make exceptions, and to impose invidious distinctions between the citizens of our common country. A citizen of our State is entitled to all the privileges of citizenship, and the rule is identical whether he be a naturalized citizen or a natural born citizen. The Constitution of the United States makes no distinctions. And the State has no more control over citizenship than she has over the national prerogative to coin money. I state authoratively that she has no right to impose disabilities upon citizens by naturalization. I rely upon the Constitution to sustain that point.

If a citizen of Mississippi is eligible to all the privileges of a citizen in Louisiana according to the Federal Constitution, how can the Convention impose *excluding* disabilities? It is against reason as well as authority. A talented and distinguished gentleman, who was an inhabitant of the Mississippi territory, when it became a State of the Union, but who had never gone through the usual process of naturalization, was elected to the legislature of Louisiana from a particular district to which he had removed. The question arose whether he was a citizen of the United States and eligible. The Senate decided that he was. Judicial decisions sustaining the same principle, that all the inhabitants of the Mississippi at her admission into the Union became *ipso facto* citizens of the United States, have been frequently pronounced.—That particular individual has held many high offices in the State.

Mr. Downs contended that the proposition and the proviso were unconstitutional; that is, they conflicted with the Constitution of the United States, inasmuch as they were intended to establish a greater restriction than existed in that instrument. In support of this opinion, Mr. D. quoted the case of Collett against Collett, before the Circuit Court of the United States; 8 Dallas, vol. 2, page 294: also another case from the same book, which, said Mr. D., is still more explicit. These decisions Mr. Downs considered as deciding that the States cannot impose greater restrictions, in admitting foreigners to naturalization, than are imposed under the act of Congress. The States may require less, but they cannot require more. In some of the new States they have availed themselves of that construction to admit foreigners to citizenship upon easier terms.

He called upon gentlemen who appeared to have such great dread of admitting citizenship, to point out a solitary instance where any injury had resulted from the appointment of naturalized citizens under the State or general governments. They had never abused their trusts, whether employed in a civil or military capacity, and had invariably been remarkable for their attachment and devotion to the land of their adoption.

Mr. Downs said, on grounds of expediency he was strongly opposed to the amendments offered. He would not retort upon the delegate from New Orleans, (Mr.

Grymes) the harsh expression which that gentleman applied to the argument of the member from Jefferson, (Mr. Preston.) He would not say it was "unfair," but he would say that the gentleman's argument, as it was an argument upon the exception, and not the general rule, was illogical. The gentleman from New Orleans had fallen into the very error which he charged upon the delegate from Jefferson. That gentleman had attempted to rest his argument upon an exception—an exception liable to all the objections of an exception—and has adopted the contracted dogma of native Americanism. Let us look into its origin. When we desire to form correct opinions we naturally inquire into the opinions of others, and, so far as they are solid and consistent, do we attach confidence in those who may utter them. If the opinions expressed be good, we rely with greater authority on him that advances them, in other respects. This doctrine of native Americanism is not new. It comes from a very objectionable source; a source which is associated in our minds with every thing that is vile and degrading in politics. It first made its appearance in the days of federalism, and produced the famous alien and sedition law. Whenever the federal party could get on and hold its own, and occasionally succeed, the contest was waged upon broad national principles; but, when a series of disasters attended all its efforts it has invariably found fault with the institutions of the country, and has sought to contract them in their application.

So it was in 1798. That party discovered it must go down unless some expedient could save it, and it judged truly, for in 1800 it was hurled from its elevated position. With a view of bolstering it up by engendering prejudices and creating animosities in the community, the alien and sedition law was passed. It became a leading question, and a distinguished champion of democratic principles, one of whom Louisiana will ever be justly proud, was conspicuous in the struggle. Perhaps of all his productions, his arguments against that law was the best. Livingston was at that time a member of Congress from the State of New York. I remember reading it in my boyhood, and it made so great an impression upon me that I recollect it distinctly. It is one of the most admirable and conclusive arguments, and the State should get a copy and have it elegantly bound and deposited in the archives, as well in honor of its great author as because it was one of the best expositions extant upon the subject to which it refers. I have it in an abbreviated form, as well as the remarks of another distinguished democrat on the same subject, (Mr. Tazewell.) I will not detain the House by reading over any portion of these documents, but if members have any wish to see what were the opinions entertained at that time upon the alien and sedition law, the volume is at their service. The opposition to this act of oppression, was the rallying point of the democratic party. In the legislature of Kentucky prompt and decided action was taken, and in the legislature of Virginia introduced his famous resolutions. So soon as the democratic party got into power it was repealed, and the prisoners confined under its authority were set at liberty. The same principle which was then repudiated, hurled under foot, is now revived with all its narrow and contracting prejudices. From boyhood I have reprobated it as a principle of oppression and exclusion. Surely no man, certainly no democrat, can give to it his countenance.

The next occasion when the principles of the alien and sedition law were proclaimed was during Mr. Madison's administration, when the country was in a state of difficulty and embarrassment, when the President was menaced by enemies from abroad and enemies from within. It was at that critical period that a Convention was held in a little village in New England, which will give immortality to the place. We never would, otherwise, have heard of the village of Hartford. At this meeting of traitors, this very question of native Americanism was revived and brought out, conspicuously, with another question of vital and abiding interest to the South—the proposition to exclude a representation of our slaves. Such is the doctrine of Massachusetts at the present day.

In connection with this part of the subject, Mr. Downs would read an extract from the Southern Quarterly Review for 1844. The author's name was not given. But from the great ability with which the article was written, he presumed it was from the pen of a very distinguished gentleman—Professor Everett. It discussed the question of the

annexation of Texas, which we are told will produce disunion, as we were told by the Hartford Convention that the representation of slaves would produce disunion. Here is the extract:

"Some year or two after, the Hartford Convention proposed amendments to the Constitution. Among which, we find a restriction upon Congress from admitting new States, without the consent of two-thirds; the withdrawal of the representation allowed to the slave-holding States, based upon the slave population; the exclusion of aliens from office and from the privileges of citizenship, except after a residence of twenty-one years; the limitation of the eligibility of the President to one term, and that he should not come twice from the same State. These amendments were proposed by the legislature of Connecticut to the other States of the Union. We have the reports of the legislatures of New Jersey and Pennsylvania upon them. In both they were peremptorily rejected, and we infer they met with favor nowhere."

Mr. President, said Mr. Downs, we find in this little extract, the spirit of the alien and sedition law revivified and blended, and in sweet communion with a new element of political strife endangering the peace and safety of the American Union. It met with no favor then. I trust it will meet with no favor now. We see in these precious doctrines the design to revolutionize the whole country and light the torch of civil war. It is the Hartford Convention sanctioning the federal doctrines of 1797, and again proclaiming the same principles, which when originally broached, had proved so disastrous to the party that espoused them. And are not these principles the same that have given rise to the native American party—the old federal party under a new phase? In 1800, the federal party were signally defeated, and meeting with a succession of reverses, they revived the exploded doctrines of 1797, and made war upon our institutions. Our institutions were not perfect enough for them, and they desired to make sweeping changes, so as to accomplish better their designs. The Hartford Convention of 1814 could not shine, its principles were bad ones; they were repudiated by the people, as in 1798, and as they will be repudiated again in 1844. Why are that party not more generous, why do they take their defeat so hard, why do they not adopt better principles, and refrain from invading the sacred privileges of the Constitution?

Mr. Downs then proceeded to show that the doctrines of the present native American party were not original. That the same hostility existed even before the passage of the alien and sedition law, and before the adoption of the federal Constitution. He read from the Madison papers to show that the same policy now advocated, to exclude persons of foreign birth from participating in the goverment of the country, were broached and insisted upon even at that time, with great pertinacity. He commented upon the views expressed by Mr. Butler, a member of the federal Convention, which embodied the very spirit of these invidious doctrines, and which have been spun out in the milk and water productions of the day as sustaining the policy of exclusion. He said the liberal opinions of Washington, Madison, Franklin, Wilson and other distinguished patriots were the reverse. They were not for exclusions, restrictions and restraints, and for denying the boon of citizenship to their fellow man. He considered the opinions of Franklin the more practical, because that distinguished man had spent a considerable time in Europe, and had the best opportunity of forming a correct judgment. What were the opinions of Franklin? They bore testimony to the good feelings of foreigners even in their own country, for our institutions, and his penetrating mind could discover none of those evils which have become of late a theme of so much pretended disquietude and reproach.

It may be said, that during a period of over sixty years, although several States have formed and modified their system of government, not one have incorporated the principle of placing the naturalized citizen in an inferior position to the native born citizen. If we except the States of Georgia and Maine, there is not a State in the Union that has adopted this illiberal distinction. The Constitution of Georgia was formed in 1790 and had reference to the peculiar geographical position of that State in the vicinity to the then dominions of Spain. As for the State of Maine, there was no discussion on the proposition in her convention. It appeared to have passed

without ordinary consideration. So that, to use the common phrase, from Maine to Georgia, no such unworthy restriction existed in any of the constitutions of our sister States.

The weight and balance of authority was then against incorporating it in the Constitution. The opinions of the most eminent of the fathers of the American Constitution and of American liberty, were decidedly averse to any unusual length of probation for foreigners, who sought among us an asylum from oppression. The intendment and designs of the federal Constitution were, that the States should impose no greater restriction than were imposed by the laws of Congress; and if they did, these restrictions would be inoperative.

The opinions of all the eminent men, whose views he had quoted in direct conflict with the spirit of the amendment, exhibited that we ought not to adopt it.—Among these illustrious men was Mr. Wilson, to whom, after Mr. Madison, great credit was due. He conceded that the services of Mr. Madison were most eminent, but next to him no one had impressed a stronger mark of his mind upon the Constitution than did Mr. Wilson. That individual was a foreigner by birth, and however disposed some may be to carp at his opinions on that account, his name is an illustrious refutation of the fallacy of those new fangled doctrines of the day which would represent one class of citizens as less attached to their country than another.

These, said Mr. Downs, are my general views. They are not hastily nor inconsiderately formed. Nor are they alone my particular views, nor those of my particular party. They are the views of men who are not blinded to the true interest of the country, and who are not carried away by the impulses of prejudice.

To show that some members of the whig party fully conceive the folly of the crusades urged against naturalized citizens, I will (said Mr. Downs,) read an extract from the Louisville Weekly Journal, the editor of which paper is a distinguished writer and a personal and political friend of the late whig candidate for the presidency. I differ with him on all political subjects. It will be seen that, although he displays a strong bias, yet he pronounces himself decidedly against the recent movement of his party to organize themselves under a new name, and upon the principle of hostility to foreigners. This article was penned immediately after the defeat of Mr. Clay, and may be considered a sort of funeral oration, or an explanation of the causes that prevented the whigs from making a better fight.

(Mr. Downs here read the extract referred to, and in connection an extract from the New York Tribune, another whig paper, reprobating the policy of fighting for new issues.)

So, Mr. President, you will see that the views I have expressed are not exclusively my own, nor that of the party to which I belong. As for the success of the present movement against naturalized citizens, it is my deliberate opinion that the wise policy inculcated by Madison, Franklin, and Wilson, will not be abandoned for half a century, if even then; and that our country, with her native and adopted citizens, notwithstanding the efforts to divide the community and to engender local prejudices and animosities, will move on to the accomplishment of her high and exalted destinies.

The gentleman from New Orleans, (Mr. Grymes,) who displayed a certain kind of liberality, had said that the American tree of liberty had been planted amid perils and strife, and that all might freely come and repose themselves under its shade. It is true, Mr. President, that the tree is now strong, and that it has taken root upon our soil. It has been exposed to shocks and tempests, but it has weathered the storm. It should, however, be remembered that it was not always strong and vigorous, nor was it permanently established. Some sixty or seventy years ago it was a feeble, percarious plant, and was exposed to eminent peril. It then required the protection of stout hearts and willing hands, and adopted, as well as native citizens, crowded around it to keep it from danger. There was then no petty jealousies—no local animosities, and the blood of foreigners freely commingled with the blood of native citizens, to nourish the tree. It may not be forgotten that, on a dark and stormy night, an officer approached the Canadian shore, and that he sealed the cause of liberty with his life. It was Montgomery, and his Irish blood was freely shed to secure and preserve vitality to that tender plant. De Kalb, and

a host of other patriots, contended with the nerve of freemen that it should not be uprooted and destroyed; and if we are now basking under its foliage, we should not forget that our fellow men from all parts of the world, assisted us in rearing and preserving it. We should not forget that one of the most important battles, in fact the one that put a termination to the war, and secured our independence,—I allude to the battle of York Town—another San Jacinto was gained, by the joint co-operation of the American forces, under Gen. Washington, and the French forces, under Lafayette—two columns advanced to the charge, one American and the other French. We should not, in a moment of exultation, flushed by prosperity, forget the friends that stood by us in the hour of our darkest peril. We should not forget the incalculable services rendered to us by Lafayette, who left a proud and lofty position in his own country, to sustain and defend our liberties; who perilled his life, and freely offered his fortune. These things should be in the recollection of the gentleman, (Mr. Grymes,) and in the recollection of the other gentlemen, who appeared so little disposed to extend the inestimable privilege of American citizens beyond the immediate boundaries of our soil. Nor was Lafayette alone in that generous devotion to our cause. A few years ago I visited Saratoga's plains, where a foreigner, an Englishman achieved the next greatest victory, certainly in its results, to York Town.—That victory deranged the whole plan of the enemy, and paved the way for our final success. The officer to whom I allude was General Gates.

I repeat what I asserted yesterday, that no example can be pointed out, of any detriment having ever been done to the United States by a naturalized citizen, either in a military or civil capacity.

There was no end to the restrictions upon the people, when they were once begun. If you say that no citizen shall be allowed the privilege of voting except he has been five years in the State, you may go another step and say that he shall not vote without property, you may then say he shall not vote without landed property, and so on until you have brought the restriction within its narrowest limits.

I have developed the reasons, which, in my opinion, should induce us to reject the section, with its odious amendments. In the name of the people of Louisiana, of our common constituents, I call for the rejection of the section, and I hope my motion will prevail.

Mr. Sellers said, I will not, Mr. President, attempt to enter into the wide range that this discussion has taken; and would not now trespass upon the attention of the Convention, were it not to repel a personal allusion. The gentleman who has just sit down, has alluded to my relations with my constituents. I think that the time of the gentleman would be better occupied in discharging his own duties, than by alluding to mine. I presented a proposition to strike out the whole section, because I thought the people should be left unrestricted in their choice. That proposition failed, and it is the sense of the Convention that there should be some qualifications enumerated in the Constitution, for those who may present themselves for the suffrages of the people. Upon that proposition I consider myself authorized to vote for the period which appears to me best calculated to attain the end proposed, by its adoption.

Mr. Grymes said: Mr. President, I rise with some considerable embarrassment to make some remarks in reply to the speech of the gentleman from Ouachita. It has been said by that gentleman, that the few observations I made yesterday were marked with sarcasms and a harshness of expression. I was not conscious of being sarcastic, either in word or in manner. Surely nothing was further from me than to say any thing which could be construed into sarcasm. I am amazed that it can be conceived I intended sarcasm, or that my words could be stamped as such. In the few observations I made I am not sensible even of the slightest harshness. I feel, under such a reproach, somewhat embarrassed, and I must say this, that either the gentleman from Ouachita misapprehended my remarks, or I have not understood his. To suppose any severity on my part, surely grows out of misapprehension and misconstruction. I answered simply the speech of the honorable member from Jefferson, and combatted his propositions. That was all!

But the gentleman from Ouachita complains that I applied the term "unfair" to the arguments of the member from Jeffer-

son. The gentleman from Jefferson and myself have pursued the profession of the law more years than it is pleasant to look back upon. I would ask him if there be any severity, any peculiar harshness in qualifying an argument that is ingenious, plausible, as "unfair." An ingenious man will draw false deductions, and if you admit his premises, he will argue you out of house and home. I could not say the arguments of that gentleman were fair, when I conceived them to be specious only, and I am at a loss to perceive how I transgressed.

I dislike all such explanations, and deprecate an over sensitiveness which discovers offence when none is intended. I trust that such a spirit will not interfere with the freedom of debate. I wou'd not willingly offend, nor would I treat the arguments of a member otherwise than with deference. I would consider it to be a heinous offence to wound the feelings of any one. Having set myself right upon this matter of "sarcasm," I will proceed to notice the arguments of the delegate from Ouachita, (Mr. Downs.)

That gentleman found fault with what I said in relation to the powers of the Convention, and the duties of its members. The gentleman from Jefferson, (Mr. Preston) in treating upon this subject, endeavored to draw a distinction between the Convention and the people. As if the Convention had the powers independent of the people, of expressing its own will; in a word he endeavored to place the Convention and the people in antagonistical positions; whereas, I contended that the Convention were the people, assembled for the purpose of considering their organic law. According to that gentleman, we were endeavoring by stringent restrictions to confine the people. I utterly repudiate such a notion, and deny that this Convention design to interfere with the franchises of the people, of whom they are the immediate and specific mandataries. I cannot conceive what restrictions the Convention would impose, that would be contrary to the will of the people. The people have all power. It is their province to determine, and they will determine through their Convention, how far and upon what basis suffrage shall be extended; who shall be eligible to serve them. They will determine how citizenship may be acquired by those who choose to come among them. It cannot be shown that in this the Constitution of the United States is violated; for that instrument does not pretend to regulate suffrage in the States. The people of the State clearly have the right to say who shall exercise the political power of the State. It may be a question of expediency how far suffrage shall be extended, and what facilities shall be accorded, to acquire citizenship. Whether we shall require any residence, or no residence. Whether a man shall have the right of voting when he touches our shores, or whether he shall be admitted to a probation, to prepare him for the duties and responsibilities of citizenship. That is the only real question. Upon that footing, and that footing alone, should it be placed. Can it be shown that by admitting every body to the enjoyment of suffrage, that it will promote the permanent interests of the State—that it will promote the happiness of her real population? I have heard no argument upon that point. The States of Georgia and Maine have deemed some restriction, similar to the proposition before us, but only greater in extent, as necessary and proper. But, in place of arguments upon the question, we are met by a disquisition upon the alien and sedition law and the Hartford Convention, and an attempt, a labored attempt to show, that there is something in common between them and the present proposition. The gentleman from Ouachita need not have sought in such doubtful and objectionable sources for the principle embodied in the section, as it has been amended. There was no point of contact. The Hartford Convention had no more to do with this principle than the Convention has to do with an imperial Ukasse. He could have found that identical principle enumerated elsewhere—consecrated in an instrument which combined the wisdom and the intelligence of the fathers of our institutions. He cou'd have found it in the Constitution of the United States, where it stands until this day undisputed and unquestioned.

But the gentleman (Mr. Downs) contends that the principle requiring residence from naturalized citizens, and identical with that for native born citizens of the other States, is unconstitutional; and in order to establish his position he has read to us a decision of the United States Court. The gentleman will pardon me for answering him as to the pertinence of this authority upon the ques-

tion under debate. If we were in another arena it would require no answer from me. What is the amount of this authority? It is the case of Collett against Collett; and if I answer the gentleman, it is because the house may expect an answer. I will read the decision. The simple question in that case was this, whether an individual was a subject of his Britannic Majesty or a citizen of the State of Pennsylvania. I will not read the arguments of counsel, for they are neither here nor there, but the decision of the Court upon the point involved. It is quite short.

What does it amount to? To this simply, that the indiviual having been naturalized by the local authorities of the State of Pennsylvania, having taken the oath of allegiance, and gone through all the formalities of law, was a citizen of the United States, and therefore no longer a subject of Great Britain, and could not sue in that court as he desired to do.

What is the next citation of the gentleman? It is equally strange and unfortunate. I will not detain the House by reading the arguments of counsel; they are ingenuous; but what say the court? There is no relation between what they say and the matter before us. The judges pronounce that a certain individual a Spaniard by birth, is not a citizen of the United States and therefore cannot commit treason, and they accordingly discharge him. There is certainly no point of contact between this and the provision requiring a residence of five years to become a citizen of Louisiana.—The question in the first case, reported in Dallas, was whether an individual who had taken the oath of allegiance, and complied with the formalities of law, before the Mayor of Philadelphia, was a citizen of the United States. The court reply affirmatively! The next question was whether a Spaniard, charged with treason, was a citizen of the United States.—The court reply in the negative, and he is discharged. What analogy do these decisions have? How do they bear, in the remotest manner, an affinity with the question before us?

The gentleman from Ouachita speaks of pledges given. I do not know whether he intends to include me in the number of those he alluded to. I can tell that gentleman, if he does, that I stand on this floor without reference to any pledges. I was sent to express my opinions, after a full declaration on my part, of what those opinions were.—A large portion of those who cast their suffrages for me, differ with me upon many political points. By electing me they adopted my opinions. I came here against my repeated declarations and wishes. I had no political objects to subserve, and it was with great reluctance I assumed the grave responsibility of representing them on this occasion. I have but a short time to remain in this world, and I did not certainly intend to meddle with politics. There were so many more that were willing to take the onerous burthen. I have come to express my opinions, and these I shall ever express with frankness and candor—not with harshness—not with sarcasm—but with amity—with the respect I owe to myself and others.

In regard to the principle involved in the provision under debate, the gentleman from Ouachita has sought to show that it is unconstitutional. This is something very indefinite. It is a *non seguitur*. In reference to what is it unconstitutional? The old constitution? If it be unconstitutional in that respect, then, it seems to me, that any change from the disportions of the old constitution will be unconstitutional, and our special mission here is useless. I would ask the gentleman from Ouachita in what respect the provision is unconstitutional?

[Mr. Downs: the Constitution of the United States.]

Mr. Grymes: with what particular provision? There is only one section in that instrument that has the most remote allusion to the subject. And that is the second section of the 4th article. (Mr. Grymes read the section referred to.)

Well (continued Mr. G.) how does it operate in derogation to the provision before us? The first inquiry is, what does it mean, that a citizen of our State shall be entitled to all the privileges of citizenship in another? I would ask the gentleman from Lafayette, (Mr. Preston.) if there is any thing repugnant in this provision. If the provision declare that a citizen of Louisiana shall not be elegible to a vote unless he shall have resided ten years in the parish where he offers his vote, will it be said that a gentleman from Mississippi is entitled to

a vote ten days after his arrival. Gentlemen will not contend that the Constitution of the United States sanctions such an inequality.

If I were disposed to be invidious, I would ask the gentleman from Jefferson, who has said so much in praise (I say nought against them) of foreigners; and I would not stop them from bettering their condition by coming among us, although the stream grows larger and larger every day, on a scale certainly commensurate with all our wants: I would ask, I say, if it were not perhaps invidous, the Attorney General, if there were none that were bad and vicious; if he never met any such at the bar; and if it were alone American citizens, by birth, that were to be found there. I presume he would find, notwithstanding his eulogiums, the mass of statistics the other way.

Mr. Grymes was not disposed to be illiberal or narrow minded. Our laws secured to foreigners the most essential privileges—greater than were accorded to foreign subjects by any other nation—they were protected in their person and property as much as American citizens: they possessed the faculty of holding property and of transmitting it to their heirs; in a word, they possessed every thing. But in respect to suffrage, it was deemed necessary that there should be something to indicate—to sustain the presumption of attachment and loyalty to their new country. They were to be subjected to an apprenticeship of four years, after which they could be members of the legislature, and were equal to participate with us in the government of the country.

Can they acquire the necessary knowledge to make them good and useful citizens in one single day? Can they approach the ballot box and discreetly use the privilege so prematurely bestowed upon them? Can they have sufficient knowledge of men and parties to vote understandingly? Why are talents searched for? If persons who have no knowledge of our institutions—no knowledge of our public men, save that intuitive knowledge—that emanation of god-like intelligence and patriotism which the member from Jefferson, in his admiration for mankind, has implanted in the human breast but which unfortunately for his theory is contradicted by actual experience, are allowed to determine and control the destinies of the country at the ballot box.

There are three distinct classes of foreigners that come among us. One class disgusted with the restraints of monarchical governments are disposed to give to our liberal institutions the form of license.—Another class are influenced by all the prejudices and hostilities against our institutions which they have imbided in their native land and in their early youth; and the third class are thrown upon our shores by the strong arm of necessity—they have not the means of sustaining life at home. The latter are by far the most numerous class.

If we accord to them the privilege of controlling and giving destination to our property, we have only to go one step further, and, in order to place them upon a perfect equality, by some kind of agrarian law, to divide our possessions with them.

The gentleman from Ouachita has read to us numerous passages from the delegates in the federal Convention upon the question of admitting foreigners to naturalization. The views of individual members of that body, among whom there appeared to be some diversity of opinion, may be well enough sought to satisfy our curiosity, but certainly can have no effect in influencing our judgments, inasmuch as the Constitution is the concentrated wisdom of the whole body, and in that instrument we find the identical principle recognized of a distinction between native citizens and foreigners, is vested with the power of prescribing and regulating their admission to citizenship. Notwithstanding the peculiar opinions of Mr. Wilson, who was himself a foreigner by birth, and no doubt a very worthy man, and some other distinguished men—the Convention that formed the Constitution were not prepared to receive foreigners and admit them to citizenship without any formality, and to make no difference between them and citizens by birth. Hence, we find that in another section the qualifications for members of Congress for one branch, for citizens by naturalization are seven years residence, and for the other nine years. If the opinions of Mr. Wilson did not prevail at that time, how can it reasonably be expected that they ought to prevail now. And, if there be any thing really odious as has been assumed,

the charge is applicable to the framers of the federal Constitution, for there the principle stands recorded.

I have been accused of treating with a certain levity foreigners. I deny that I have done so. I am not inimical to them. In what I have said, I answered only what fell from the gentleman from Jefferson, who, in his admiration for foreigners, and in his anxiety to recruit our population with fresh hordes, has assumed that we should open the flood-gates and let the stream pour in upon us, in order that we should have the lights of science and intelligence diffused among us. I certainly do not object to Europeans—I do not object even to Asiatics, provided they do not insist upon our adopting their code of morals! We receive all with hospitality; they are left free to pursue whatever trade of industry they choose—they are placed under the protection of our laws. We receive them in our home, we give them the best that we are possessed of, we kill the fatted calf; but if we deny them the government of our homes, it is said we are harsh and illiberal. They must not only regulate our homes, but they must even have the choice of the cook and the ordering of the servants!

The gentleman from Ouachita has alluded to the services we have received from foreigners during our revolutionary war. I would not disparage any of those services. I am willing to admit them to their fullest extent. The gentleman has spoken too of the sacrifices made by Lafayette; that he relinquished the honors and distinction of nobility to give us a helping hand. I am surprised that the relinquishment of nobility should appear to be an object of such vast magnitude to a simple republican. Lafayette served us faithfully, but he could not accuse us with ingratitude. He was received as the nation's guest, from one extremity of the Union to the other, and our statute books contain the evidence that we did not stint ourselves to mere outward expression. We were liberal and generous, as far as liberality and generosity could go. Exclusive donations of land were made to Lafayette, and even so far were his services acknowledged, that the office of Governor of Louisiana upon its acquisition was tendered to him, but like a good man he refused it.

The proposition is clear that each State is sovereign, and may use all those which are not delegated to the general government by the federal compact, but which are reserved to the States and the people. It is clearly then, within the province of each State to regulate and declare upon what terms local citizenship may be obtained, and this is a question exclusively of expediency. If the gentlemen who are opposed to any guarantee, and who are in favor of admitting strangers to suffrage, can show that it will be expedient to do so, then the argument has ended, and I shall cheerfully vote to strike out all and any restriction upon the acquisition of suffrage. But they have not done so, nor will they argue the question upon legisla ive grounds, but they take exceptions, and assume premises having no connection with the subject matter under debate.

The gentleman from Ouachita has told us an anecdote to show that although Patrick Henry was a great orator, he was not a man of business, and has insinuated an analogy between that distinguished individual and myself. I have not the pretentions to think the compliment is at all deserved, nor do I value myself upon any faculty I may possess of speaking. The art of speaking is, perhaps the least valuable. It is evanescent, and when one's thoughts are expressed by speech, they are retained only through an imperfect recollection. It is true the words may be taken down, but the manner and expression that gave them force are not there, and they are lifeless and insipid; whereas, the faculty of expressing our thoughts in writing, is enduring through all time, and by the possession of the press, may be diffused to countless thousands.—This gratification, I trust, the gentleman from Ouachita fully enjoys. I do not pretend to possess any great aptitude for business, and in that respect I may be more like Patrick Henry than the gentleman who institutes the comparison.

Mr. Grymes concluded by an earnest appeal in favor of the section as it had been amended.

Mr. Marigny said, that notwithstanding the impatience displayed by several members of the Convention, he would avail himself of his right to develope his views in order that they might have the utmost extension. New Orleans embraces within her limits a large number of naturalized

citizens, whose cause he could not and would not abandon; but even if there were only one among his constituents whose rights were attempted to be invaded, he would, as he did now, enter the lists in their defence.

I shall, said Mr. MARIGNY, respond briefly to the distinguished and influential gentleman that has just addressed you.

A very simple question has been converted into one of colossal dimensions, and has been argued so as to create unnecessary fears. The gigantic conceptions and prodigious subtlety of the arguments that have been employed call for the experience, the eloquence and the learning of one of my colleagues, (Mr. Sou'é) but indisposition prevents him from addressing the House, and I feel myself called upon to attempt the task at a moment, when to my great surprise and that of many others, the senatorial delegate from my district has placed himself at the head of the opposition. I do not enjoy the advantages of being like him an orator, a lawyer and a dialectician, but nevertheless, I feel that Providence will neither deny the force nor the logic of which I stand in need to refute his arguments!

Let us turn our eyes around this room for as a general examines the force of the enemy and their position, so the orator should understand the assembly whom he addresses, and discover the habitual designs of parties. We are here seventy-seven delegates. Some are here to prevent all amelioration. Others to secure to the people greater privileges than those accorded by the Constitution of 1812. That is to say, the majority after repeated protestations and renewed exertions, have succeeded in calling a Convention—the minority have sent their representatives here with the well understood design of arresting and preventing all amelioration. Here is our position, and here is the cause of the divergence of opinion that has manifested itself among us, and the excitement of passions that have agitated our proceedings. But let us look at the question.

Under the old Constitution the people may select their representation from either the naturalized or the native born citizens, so much so as regards the former, that five years after their arrival, upon their being naturalized, they may aspire to that proud distinction. Well, the minority who have heretofore found that principle a good one, profit by the dissensions in our ranks, to extend this time of probation, and design, hereafter, that no naturalized citizen shall enjoy the same privilege, unless he reside nine years in the country—five in the republic, and four in the State.

I confess that never did any thing surprise me more than this proviso, and I am induced to believe that its mover did not fully comprehend its extent. In vain did the delegate from Jefferson ask what was to be obtained by this proviso. Why was it desired to destroy rights consecrated for thirty years, and which had been unattended with the slightest detriment to the State. What harm had ever been done by naturalized citizens, that they should be treated with so much rigor? Whether it were reasonable, just or wise, to repulse men whose ancestors participated so honorably in the good administration of the country, as well as in the elaboration of our laws, as in pursuit of honorable and profitable avocations.

No reply was made to that delegate, except by amusing phrases, by a silence, the motives of which it was easy to comprehend, and by citing laws that had no bearing upon the question; for these laws existed elsewhere, and there were no grounds to give them weight in a Convention, the special mission of which was to diminish the public burthens, and to increase the public privileges. Already, by the defection of which I have spoken, has it occasioned the loss of two important rights belonging to the people.

Let the minority continue but to succeed in this way, and the people will soon find that in place of an executive, a dictator will be imposed upon them. How is it that men, capable of reasoning, should, like the member from Attakapas, (Mr. Voorhies) imagine that a stranger cannot understand our institutions in less than nine years. I know full well that it requires seven years to learn the Greek and Latin, but I did not know that it required nine years to understand a constitution of four or five pages! It is of no use to argue with those who are forced to take refuge in so restricted a position.

Let us see how the elevation of sentiment compensates for the feebleness of argument. The delegate from Ouachita, (Mr. Downs,) has eloquently described the heroic march of a French column at

the memorable battle of York town; and my colleague, (Mr. Grymes.) with impassable coolness, replies, "well be it so, but we have largely paid for these services." But when, Mr. President, has French blood been paid for with gold? The French people, in whose veins it ran pure and generous, compelled their King to pronounce against England, and to send aid, in men and money, to our republic—at that time scarcely born—and when the most experienced, doubted the possibility of assuring its independence; and after these important services, in the moment of prosperity, we reply to the fraternity and sublime devotion of our faithful ally and friend, and say proudly, "be silent, we have paid you!" A man who poetized the republic, as Homer poetized Mythology, traversed the continent to announce that at length the standard of liberty floated in the West, and that it was the interest of nations to assure its triumph.

We reply, "Lafayette, we have fully paid in money for all your services!" I knew that we wished to convert the intellectual world into materiable matter, but I did not know that we made of merit and of services an affair of bankers and money brokers!

Let there be no mistake, as to the designs entertained: they are neither those of reason, nor conviction. Eloquence and address are relied upon more than truth and justice. But where shall we be led by this policy? To labor without an object, and to incur useless expenses.

The people, without exception of origin, crushed in their dearest sentiments, will reject the constitution that has been adopted by management. The minority, it is true, will have accomplished their object, which has always been to preserve the old constitution; but the Treasury will be diminished by eighty thousand dollars, and the people will be again thrown upon the tempest of excitement.

Inimical as I have always been to radicalism, I was far from thinking that those on the opposite side, would have pushed their views so far, and nothing remains for me but to deplore their course. They are about inflicting evils upon us greater than those of which we should be cured. The people, fatigued sooner or later, will do that which their agents have refused to do.—See what they have done, and then comprehend how they can conquer and reign. Charles the First, of England resisted the demands of the people, and his head fell under the axe directed by Cromwell, the prophet of the people. Louis XVI hesitated between the court and the people, and his head rolled upon the block of the convention and of the people. Charles Xth receded before the popular movement, and was conducted to the tomb through the route of exile! The nobility and clergy were disposed to remain stationary in Spain, and the people became excited, had recourse to fire—to blood—assassination—and to poison; for it was necessary that they should triumph and that necessity made them blind and cruel.

Let the minority reflect! Their triumph will be but momentary; the people in their anger will have no more respect for persons than property and when another Convention shall be called, to correct the error of ours, nothing will prehaps remain but the mallet of the President.

Mr. Culbertson said that he had voted in favor of the proposition of the delegate from Attakapas, but upon maturer reflection, and having heard the question fully debated, he would vote against the section as it had been amended.

On motion of Mr. Ledoux, who expressed the desire of making some remarks upon the subject under consideration, the Convention then adjourned.

Thursday, January 23, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened by prayer from the reverend Mr. Hinton.

Mr. Wadsworth informed the Convention that this was the day on which he was agreeably to previous notice, to ask for the re-consideration of the section fixing the general elections for November.

The question was taken, on the motion, to re-consider, and the ayes and nays were called for.

Yeas—Messrs. Aubert, Beatty, Benjamin, Bourg, Briant Chinn, Derbes, Dunn, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau Marigny, Roman, St. Amant, Saunders, Taylor of St. Landry, Trist, Wadsworth, Courad of Orleans, Eustis, Claiborne, and Roselius—27.

Nays—Messrs. Brazeale, Brent, Brum-

field, Burton, Cade, Carriere, Chambliss, Convillon, Downs, Garrett Humble, Hynson, M'Callop, M'Rea Mayo, O Brian, Peets Penn, Porche, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stevens, Taylor of Assumption, Ledoux, Voorhies, Waddill, Wederstrandt, Leonard, and Winder,—37.

So the motion to re-consider was lost.

Mr. Wadsworth presented a resolution for the appointment of an additional reporter in English.

Mr. Voorhies supported the resolution.

Mr. Lewis expressed himself opposed to electing another reporter; he apprehended that the present reporter was sufficient. If Mr. Kelly was unable to fulfill his contract, we should be under the unpleasant necessity of displacing him.

Mr. Wadsworth would modify the resolution by proposing to appoint a committee to examine and report what was the cause of delay in the publication of the reports.

Mr. Chinn saw no necessity for referring the matter to a committee; the secretary might communicate all desired information.

The motion to refer to a committee of five members prevailed, and the president appointed Messrs. Wadsworth, Lewis, Claiborne, O'Brian and Waddill members of the committee.

Order of the Day.—The Convention took up the fourth section of the second article of the Constitution, which was under discussion, when the convention adjourned yesterday.

Mr. Ledoux rose and said: Mr. President, although I have the honor to hold a seat in this body, it may appear presumptuous for me to rise from it, to enlighten those who have so much more judgment and experience. When I look around me, I see men whose age, talents and experience make them my superiors in every thing, except, perhaps, in good intentions. It would seem that I would be justified in listening to what fell from them, and regulating my opinion upon the weight of theirs. But the subject before us is one of too much importance, and a sense of duty will not permit me to remain silent. I cannot concur in the position assumed by the delegate from New Orleans, (Mr. Grymes,) that we are the people. I apprehend that this assertion embodies a dangerous doctrine. The argument, that because this body is a creation of the people, that, therefore, whatever it does is done by the people, is tantamount to this: God made man, man robs his neighbor, and therefore God is the author of the theft! We are but agents of the people. An experience of 30 years convinces them that there were dispositions in their organic law, not consonant with true liberty and true republicanism. They have determined to assume the powers which they confided to the framers of the old constitution, and if we are convened here, it is only for the purpose of remedying the evils and inconveniences of which they so loudly complain. This is our mission, and nothing more!

I consider the proviso proposed by the delegate from Attakapas, (Mr. Voorhies,) as embracing odious restrictions upon the sacred rights of the people. It is an unwarrantable attempt to control their liberties.

Suppose, for example, that a planter needs an overseer, and it suits him to employ one from the North or from Europe. Can he, without a violation of principle, be compelled to choose one at home or in an adjoining parish? When the founders of our government determined that our institutions should be based on the popular will, it was because they confided in the sagacity and judgment of the people, and that the people, the source of all power, would not be led astray.

Why should we distrust the people? Why should we pursue the course of severity towards them, and repulse those who have sought an asylum upon our shores. Our naturalized citizens have been as devoted, as attached to the country as our native citizens. They have always been faithful to us in the hour of danger, and are we to repulse them in the day of prosperity? I hope that this will not be done. Not only do those from foreign countries appreciate our liberties and our institutions, but they dislike any other appellation than that of an American citizen.

I shall never forget the appropriate and beautiful response of a distinguished gen-

tleman who was formerly one of our citizens, but now a resident of New York. When on a visit to Virginia he was taunted with being a foreigner. You ask me, said he, to the person who addressed him at a public meeting, whether I am a citizen of the United States? Sir, I have been naturalized four times; the first time I was naturalized in virtue of the treaty of cession of Louisiana to the United States; the second time I was naturalized in virtue of the establishment of a territorial form of government in Louisiana; the third time by the admission of Louisiana into the Union; and the fourth time, you are no doubt anxious to know how I again became entitled to the privileges of American citizenship, and who were my sponsors—it was on the battle field, fire and water were the symbols, victory, patriotism and glory, were my godmother, and General Jackson my godfather!

I shall not make any comments upon this happy retort. Foreigners who have been baptised under the auspices of Washington, Adams, Jefferson and Jackson, will never prove recreant to the sacred principles of the Constitution, nor insensible to the impulses of patriotism. They have never been recreant in the moment of danger—they will not be recreant in the days of prosperity and sun-shine!

I entertain no fears of their fidelity and attachment. I have unbounded confidence in them, as I have in those who first drew their breath in this land of liberty: I make no insiduous distinctions between native and adopted citizens; and I would leave the people free to choose whether they would entrust their interest to one of their native fellow-citizens, or one of their adopted fellow-citizens, believing that upon the patriotism, integrity and virtue, of both classes depend the durability of our institutions, and the happiness of our people.

Mr. President, I think I comprehend our mission. The people are competent to take care of themselves. Let us commit the ship of State in all confidence to their hands; let them appoint, without let or hindrance, the captain, engineer, and the whole crew to man her, and we need entertain no fears but that she will proudly sail upon a sea of glory, and be wafted by the propitious gales of prosperity to the port of happiness.

I shall not detain the Convention further than to say, that I shall vote against the section as it has been amended.

Mr. Ratliff rose under a sense of duty to enter his solemn protest again against the principle embodied in the section. It was, he repeated, unjust, partial and oppressive. He would not apologize to the Convention for trespassing upon their attention after the brilliant and masterly arguments they had heard from the most distinguished members of this body. He had not the vanity nor presumption to suppose that any thing he could say would over-balance what had fallen from them, or add to its force. He did not pretend to vie with them in oratory—they were literary men—men of great weight of character. But my constitutients, said Mr. Ratliff, have sent me here to perform a most important duty, and, however feeble may be my powers and inadequate my conceptions, I feel bound to exert myself to the utmost of my poor abilities.

I trembled (continued Mr. Ratliff,) when I heard the motion to strike out the qualifications in the section, for radical and destructive as I have been called, I am not for mutilating the old Constitution in those parts that have been sanctioned and still are sanctioned by the unanimous approval of those that sent us here, and whose wishes we ought to follow, and not our own sudden caprices. I predicted to my constituents what has actually occurred—that radical and destructive as I am called, they would see me defending the Constitution from the attacks of those that are denominated conservatives, and upholding those liberal provisions in it which the people have so much revered, and which induced them to submit so long to the blemishes and defects which it contained.

The distinguished gentleman from New Orleans, (Mr. Grymes,) in order to give point and force to his arguments, has imagined the tree of liberty extending its branches over the whole of this Union—open to all for shelter, exposed to be hacked and cut down by foreigners; and to prevent this direful result, he tells us that we must pass the proposition of the gentleman from Attakapas, (Mr. Voorhies.) I can see, Mr. President, no danger of such a calamity.—Our naturalized citizens are as much interested in the preservation of that tree, in keeping it in its green and flourishing state as we are ourselves! What do the lessons

of experience teach us? Has there ever been a naturalized citizen, who was found recreant or inimical to our institutions? whose patriotism has not responded to the exigencies of the public service? I know not, Sir, of a single instance; and why should they all of a sudden abandon their attachment and fidelity to the country and conspire against its liberties? Why should they do so? But if their patriotism be really extinct—if those that arrive upon our shores be recreant to patriotic impulses, is there not a strong evidence, a selfish one it is true, but an all-powerful one still existing to restrain them from their fell purpose. What are they to gain by destroying our liberties? Do they not destroy at the same time the asylum which has given them protection—which has placed them upon an equality of rights, and where are they to flee? Why prolong the term of probation? Why make it longer than the acts of Congress have established? If five years be too short, let the concentrated wisdom of the nation apply the remedy. But do not let Louisiana say to a *bona fide* American citizen, "Sir, you must wait four years longer before we can recognize you as a citizen, although every where else you are, to all intents and purposes, an American citizen? There is something exceedingly harsh and contracted in this, and it leads much further than some gentlemen imagine. It may embrace some of the constituents of the very gentleman that presented it—some of them who may have voted for him—and yet he turns round and by a general principle excludes some of the very individuals that sent him here; for it may very well happen that among the voters there had been some but recently naturalized; and they would, if this principle is adopted, be obliged to relinquish their privileges of citizenship, until the expiration of the four years that are prescribed.

[Mr. Voorhies: the gentleman is entirely mistaken. My proposition cannot have a retroactive effect, and it certainly never was my design that it should. I consider personal rights that have been acquired under the sanction of our laws as vested rights, and not to be interfered with. I will repeat, so as to avoid any misconstruction of my motives, that I have no hostility nor dislike for naturalized citizens. I make no distinctions between them and other citizens; and my proposition goes no further than *for the future*, to place naturalized citizens removing from other States on a precise equality with other citizens, removing to Louisiana; and requiring four years residence from both to qualify them for assuming the management of our public affairs.]

Mr. Ratliff: I do not understand your provision thus. It embraces the past as well as the future, at least the language would authorize that interpretation. But to continue.

The honorable delegate from N. Orleans, (Mr. Grymes,) thinks it very hard that any one should complain of severity being employed towards foreigners, when he says they are received with open arms; that the fatted calf is killed for them, and that they are made welcome. But that, not satisfied with this noble treatment, they turn around and wish to command the good man's house, to order about his servants, and complain of his cook. Very well; but if the stranger should marry one of the daughters and become a member of the family, it seems to me that in that case his tastes ought to be consulted, and some regard ought to be paid to his wishes.

I do not in the least object to the arguments of the delegate from New Orleans, (Mr Grymes,) he struck some powerful blows, and managed with infinite tact and address what will never fail to exercise some influence in debate—ridicule and sarcasm. But after all, the result of his masterly effort was not as astounding as might have been anticipated. Some of the minority may have been amused at his manner of disposing of the arguments of his adversaries, but he did not change a single opinion, a proof that, although his argument was able, it was not convincing; on the contrary, one gentleman who had voted with the majority, with the independence and judgment that characterized him, declared his intention to change his position, because he considered his first conclusions were wrong, and that almost immediately after the brilliant display of the member from New Orleans. It is very easy to perceive that reflection will not sustain the principle under discussion. It is odious, because it is exclusive, and, as for any pretended danger that the people will elect persons to represent them who are not

identified with the State, the idea is preposterous. They will do no such thing. There are too many old stagers to take the stump, in whom the people have already implicit confidence, for confidence is a plant of slow growth, and does not attain its maturity in a day, or in a year.

Another consideration, if we impose restrictions, we will make our work odious, and the people will not accept it. They will repudiate it. It will be a Constitution of mere waste paper; for such is the form of our Government, that, however certain individuals may be inclined to doubt the sagacity of the popular will, there is no proceeding without it. It is indispensable to measures and to men.

Our mission is confined simply to amending such parts of the old Constitution as the public voice has reprobated. We have no business to attempt to anticipate the wishes of the people beyond this; but we should respect, and leave inviolate every disposition in the constitution, where no amendments have been demanded by the people. The conservatives, as they are called in contradistinction to the radicals, faithfully promised to stand by the old Constitution, and permit as few changes in that instrument as possible. On that ground those that are here were elected, and on no other; and I, a radical, now call upon them to respect their engagement with the people.

Why should we indulge in petty jealousies and idle apprehensions? Is it probable that the legislature will ever be composed of strangers to our institutions, of persons having no vote or interest in our community? We have only to look at the principal and most of the subordinate offices of our State, to be convinced that there is a natural feeling of preference in favor of the native population. There is no need of fostering it by unworthy appeals. The highest offices of the State are in the hands of the creoles of the State. The speaker of House, the president of the Senate, the governor of the State, the treasurer of the State are all creoles. The two gentlemen whose names have been mentioned, as probable candidates for governor, are both creoles. Has any one complained? No, the American population from the other States, and the naturalized population, are well satisfied that it should be so. How many men of sterling merit never have distinguished themselves, for want of a proper occasion? Thousands of Washingtons and Bonapartes have died in obscurity, behind the plough. They wanted the occasion to devolope their genius. The greatest men our country has ever produced, have risen by the force of their own genius. Witness Henry Clay, who was once a mill boy. Do not let us destroy competition; on the contrary, let us stimulate it, and let the honors be to that man who renders the greatest services to mankind, be he born on the soil or elsewhere. There is no fear of our being outdone by persons from other countries; we have natural advantages over them, that give us already a decided advantage in the race. Each parish, and each section of the State has its men of recognized standing, and they are not to be thrown aside to give place to perfect strangers, that have arrived yesterday, or the day before, as some gentlemen apprehend. Why, humble as I am, and feeble as are my powers, I am afraid of being beaten by no man in my district, as long as I shall do my duty, and when I cease to do it I ought to be beat. There is not a foreigner, however brilliant may be his tallents, that could beat old Cy Ratliff, in West Feliciana, if such an one was made elegible to office to-morrow, and was to run with him in competition for the suffrages of the people. It is idle to pretend that we shall be domineered over—driven from our homes, or reduced to vassalage, if we do not adopt stringent restrictions towards naturalized citizens. I hold, (said Mr. Ratliff,) all restrictions upon the people to be useless. If the people are disposed to observe these restrictions, why, then, they are useless; if they are not disposed to observe them, they are still useless, and there is no power to enforce them against the will of the people. We have the example: Mr. Mouton, the present governor of our State, was elected and inaugurated, but who inquired, either before or after the election, whether he had the property qualification or not; who cared whether he owned five thousand dollars, or not one cent? They voted for him, not for his propperty; and who doubts that if he had been excluded, on account of a want of property qualifications, and another election had been ordered, that he would have been elected over again—not as he was the first

time, by democratic votes alone, but by both democratic and whig votes. The people would have revolted in carrying out one of these very restrictions, and would have nullified it by their unanimous voice. And again, who asked the respectable and worthy gentleman that preceded him, who was twice elected governor, and who now holds a seat in this body, if he had the property qualification to be governor. I never voted for that gentleman, and yet I am bound to say, and I say it with pleasure, that his administration was wise and sagacious, and that he endeavored, and to a certain extent, succeeded, in averting the evils attendant upon an abuse of the resources of the State, at a time when another honorable gentleman, also in this body, and myself, stood up in support of the Governor, although we were both politically opposed to his administration.

Mr. Benjamin did not design to address the Convention, but the propositions and the doctrines that have been advanced by some of the members were so startling, so novel, and presented such extraordinary issues, that he felt called upon to make a few observations. Any stranger that would have entered this room during any stage of our discussion, would have supposed that we were debating a Constitution for Europeans, or the people of the other States, and not for Louisiana. For the whole burthen of what has been said, has been rather what privileges should be granted to strangers coming among us, than what rights and what guarantees we should secure to ourselves. The debate has been so very discursive, that it has embraced the widest range, and has touched almost every topic.

At first, said Mr. Benjamin, I thought the President wished to restrain the discussion within too narrow a range, but I never dreamed it could be carried so far.

The question before us, divested of all the extraneous matters with which it had been clogged, was a simple one. It was a question of security. This State is peculiarly situated, and her position exacted some measures of prudent forethought, in order to shield her from assaults upon a vulnerable point. Her peculiar institutions were liable to attack, and it was to preclude the danger which menaced her that some measure, similar to the one under discussion, was deemed of vital importance.

A great deal has been said about the voice of the people, and one gentleman has taken upon himself, *ex cathedra*, to declare what that voice is. I know not how the gentleman came by his mantle of inspiration, but I deny that he has any business to interpret the will of any other constituency than his own. No member has the right to set himself up as the exclusive judge of the voice of the people, and to insinuate that there is any contradistinction between what he supposes to be the voice of the people, and the particular course that any delegate on this floor may see proper to pursue. He may, if he chooses, construe the voice of those that elected him to represent them, but he has no right to place himself as the exponent of the will of the people of the whole State. I deny his competency to do so, and I deny his right. Having disposed in a few words of the remarkable position taken by the delegate from Ouachita, on that matter, I return to the consideration of the subject under discussion.

What is really the matter in dispute? It is this, that no one shall be eligible to the general assembly who has not resided four years in the State, if he be a citizen of the United States by birth or by adoption. What objection can there possibly exist to this provision? It is assumed that it is an unequal, unjust, and anti-republican restriction. Let us examine it in these various points. And first—How is it unjust? Every citizen is placed on a precise equality in the requisition of residence, be he a native or an adopted citizen. The principle is explicit. It applies to all—to the citizen of New York as well as to the citizen of Mississippi; to the native born citizens of other States, as well as to the citizen by naturalization; four years are prescribed for all.

Where is the impropriety of protecting, by requiring residence, the institutions which we have met to remodel and to perfect? Have we not the right to do this? Is there any thing wonderful or extraordinary in its exercise—something that has never been thought of by any other government; in a word, "is it an odious distinction?" I apprehend not. The very same principle was mooted in the federal Convention, and was finally embodied in the Constitution of the United States. But are there no other restrictions? What is that

restriction which requires that the voter should be free? That he should be white. Is this anti-democratic too? Next that he be a male. Are these all odious distinctions? Where do the odious "distinctions" begin, the "aristocratical" exclusions? All are willing that two years' residence should be required. That is conceded to be correct. But four years is "aristocratical,"—an attempt to create a "privileged class,"—a "nobility." Is it possible that men, presumed to represent the elite of the State, can present such conclusions; can be driven into such petty evasions, and maintain the absurd theories that we have heard seriously contended for on this floor.

The member from Point Coupée, (Mr. Ledoux) had stigmatized the proposition as anti-republican. Yet the delegate from the first district, (Mr. Grymes) had invoked attention to that article of the Constitution of the United States, which upon the very same subject of qualification of persons elected to the house of representatives, prescribes that they shall have acquired citizenship for seven years, which with the five years for naturalization, would make twelve years' residence for adopted citizens before they would be allowed a seat in Congress. If the principle be anti-republican, then Madison, Franklin, and Washington, were anti-republican, since they sanctioned it. Let the gentlemen who employ that argument, make the most of it.

But, says the delegate from the parish of Point Coupée, if a sugar planter wants an overseer, shall he be restricted to taking one in his own parish when he would prefer one from abroad. There is no visible analogy between this suppositious case and the principle involved in the proposition. If it pleased a sugar planter to send to the North for an overseer that was profoundly ignorant of the cultivation of the cane, as he would be, the only sufferer from the mismanagement of his own crop, if he were so foolish as to act so inconsiderately, no one would have a right to complain; he would punish his own folly. But suppose there was an association of planters, is it to be presumed that they would appoint an overseer to superintend their joint interests who was manifestly incapable and an improper person? The representative of a particular parish, is not the mere echo of that parish. His vision should not be bounded by the petty locality from which he comes. He is here to guard the interests of his constituents; it is true he has another obligation, and that is to promote the interests of the whole State. It may well be conceived how very important it is to have men in our legislature that are imbued with our feelings and sentiments, and are identified with our interests and institutions.

There is one subject, said Mr. Benjamin, that I approach with great reluctance. It is a subject of vital importance to the southern States, and should produce at least unanimity in our councils, to avert a common danger. It is not the part of wisdom, however we may differ, to wrangle where the safety of all may be compromitted. I would scorn to appeal to party considerations. A question may arise in a few months that will obliterate all party distinctions; when there will be neither whigs nor democrats. When the whole South will coalesce and form a single party, and that party will be for the protection of our hearths, of our families, and our homes. That man must be indeed blind not to perceive from whence the danger comes. The signs are pregnant with evil. The speck upon the horizon that at first was no bigger than a man's hand, overshadows us, and there is not a breeze that blows that does not sound the tocsin of alarm. The light is shut out, and we should prepare ourselves to meet the emergency, whenever it may come. Our organic law would be deficient if it did not provide a bulwark. If it did not guard us from the machinations of an insiduous foe. The course of events within the last few months prove that we must rely upon ourselves and our southern confederates, to maintain our rights and cause them to be respected, and not upon the stipulations in the federal compact. We must insist for ample security for these rights.

Mr. Brent said he could not permit the section, as it had been amended, to pass to a final vote without expressing his views upon it. He regarded the proviso of the delegate from Attakapas, (Mr. Voorhies,) as admirably adapted to the proposition, requiring four years' residence in Louisiana, to be entitled to the privilege of a seat in her legislature. They fitted well together, and only one thing more was neces-

sary to complete the beauty and harmony of the whole. That was a provision that none but native born citizens of the State should be eligible to office. The proviso of the gentleman from Attakapas makes a distinction between native and adopted citizens, or it does not. If it does not make any distinction, it is idle and unnecessary, and it is occupying our time which could be more profitably employed. If its effect be to create a distinction, I enter my most earnest and decided protest against it. I impugn no man's motives. I have no doubt they are pure and patriotic, and that the advocates for this restriction really believe it would have a beneficial effect. But motives cannot vary results. I consider this provision an entering wedge for the native American question in its whole length and breadth, and I see nothing in that narrow and contracted doctrine to entitle it to favor. What have we seen in our sister States? That its progress has been marked by violence and blood. Nay, sir, that it illuminates the torch of the incendiary and wrapped a peaceful city in flames, desecrating the sanctuary of the living God! I regret, sir, from the bottom of my heart, that this element of discord and of strife has entered into the debates of this august body.

It may be said that these remarks are not pertinent to the matter at present before this body. I think it has a direct bearing, and that the spirit of exclusion engendered by the native American question ought not to find its way into our constitution, or into our legislation.

The question arises whether we should amend the old constitution in this particular section? Were the popular will pronounced in favor of any change in it, it might be proper to modify it. But such is not the case. There is no complaint in reference to it. It has been in existence for thirty-two years, and it has worked well. How many persons of foreign birth have found their way to the legislature under it? Remarkably few. Some fifteen or twenty perhaps, and in every instance men of eminent talents, as illustrious for their virtues as for their patriotism. Men, that have conferred high distinction upon the State, and illustrated and adorned the pages of our history.

There is another point, said Mr. Brent, upon which I would offer my views. I object to the people being restricted in the choice of their agents more than I do to the injustice of excluding a portion of them from participating, if they choose, in the administration of the affairs of State. I complain of the proviso. But gentlemen tell us that it is impossible to acquire a knowledge of our institutions under five years. Our institutions are not so complex: the principles of our government are few and simple. If five years be not sufficient, why not prescribe forty? Would not forty years be better than five? Liberty springs spontaneous in the human breast. It withers under the sirocco breath of despotism, but is soon restored to life and vigor by the moisture of liberty.

It is an entire folly to suppose that because persons are eligible to office they will necessarily be elected. There are millions of citizens eligible to the office of President, but there are but few elected. To make foreigners eligible would not necessarily result in their election. It is idle to suppose that the ignorant would control our legislation. It is paying the people a poor compliment to contend that they would elect some ignorant foreigners over an intelligent native citizen. I have great confidence in man's capacity for self-government. I believe in the discernment of the people, and I cannot think the people of Louisiana are so besotted as to choose persons, no matter how incompetent they may be, that have but just touched our shores.

I cannot, (said Mr. Brent,) concur in the proposition advanced two or three times in the course of this debate, that this Convention constitutes the sovereignty of the State. I cannot for one admit that the sovereignty of the State resides in us. The sovereignty of the State is in the people themselves. We are but their agents —their representatives. It may happen that we may violate their will and instead of a better constitution make a worse one. If we do that, we shall soon find where the sovereignty resides.

The delegate that last addressed the Convention alluded to a subject of vital importance, which in his opinion, rendered the proposition before us essential. He said that the signs of the times boded the amalgamation of the whig and democratic

parties, for the purpose of protecting their hearths, their families, and their homes.

So far as I am concerned, said Mr. Brent, I do not entertain any fear from the source to which he has alluded. And however apprehensive I might be of those evils, I see nothing in the proviso that would afford any efficacious protection. I fear our own citizens—the abolitionists of the North—more than I do the emigrants from Europe. What protection does the proviso afford us from the assaults of those fanatics? The proviso does not say that none shall vote nor hold office, but those that own slaves. It does not preclude non-slaveholders from office. How is it possible, that this proviso can have any effect? It simply declares that no adopted citizen shall be allowed to represent us, unless after four years' residence within the limits of the State after his naturalization papers have issued.

I enter my most solemn protest against any distinction between native and adopted citizens. Let them both stand on the same footing; and in God's name, let the people elect whom they please, native or adopted.

I am a native of Louisiana, but I would be the last one to secure a monopoly for creoles, if they were without talent and energy; and may my tongue cleave to the roof of my mouth if I ever sustain a principle of favoritism for them.

I have stated before my objection to the first part of the section. I entertain the same objections, and believe it is not wise to exact so long a residence from a citizen who has emigrated to the State, to be entitled to the right of suffrage, or to be a candidate for office. I am decidedly adverse to excluding any in the distribution of offices, and converting Louisiana into a new celestial empire. I cannot look upon emigrants from our sister States as enemies. We have been all educated in the same school, rocked in the same cradle, and can point to the same great men as the fathers of our country, Washington, Franklin and Jefferson. I trust the odious clause will be stricken out, and that our fellow-citizens from other States, whether native or adopted, will be placed, after one year's residence, on an equality with ourselves.

Mr. Chinn said he was about to make an odious motion, the motion for the previous question. This subject had been under discussion for two weeks, and it was perceiveable that all the arguments had been exhausted. He would withdraw the motion, if the gentleman from New Orleans, (Mr. Eustis,) wished to speak.

Mr. Eustis said he certainly had no desire to be heard, or he would have risen on some previous occasion. In no event, however, would he consent to receive from courtesy, that which belonged to him as a matter of right. He was willing to respond to the wishes of the House, by arresting the debate where it was.

[The Convention having signified their wish that Mr. Eustis should express his views, and Mr. Chinn having withdrawn his motion,]

Mr. Eustis rose and said: Mr. President, it strikes me with some surprise that a desire should be imputed to me to be heard, when the subject under debate is deemed to be thoroughly exhausted. This arises, possibly, from the fact, that I happened to be among those that were solicitous to speak. But since the Convention is disposed to hear what I may offer for their consideration, I shall in the first place remark, that I am opposed to the restrictions proposed, which would affect a large number of citizens that I have the honor to represent on this floor.

My design, Mr. President, is not to discuss the question before the Convention; that I conceive has already been fully done. But to suggest to the Convention a decision that will be just, that it will sustain the character of the State, and will stand the test of truth and of time. In the first place, I consider the amendment an useless innovation upon the original section in the Constitution. That section has been in operation for thirty-two years, and no injury, no detriment has resulted to the State. The arguments that have been employed to show that there is a necessity for a more stringent rule, have, to my humble conception, entirely failed, and the only consequence that would flow from the adoption of the proposition, would be unfortunate dissentions in our community, and dangerous excitements. Why change that which experience has sanctioned? I can see no necessity for doing so, while I see much evil that would inevitably ensue from the innovation. How would you place those citizens that have been naturalized within

the last year or two? Would they be excluded? Would your provision apply to those that are daily making declaration of intention to become citizens? It makes no reservation in favor of such. In every view of the case, then, I deem it inexpedient, unjust, and oppressive.

I will not enter into personal considerations, for these I hold beneath the dignity of this body. The question before us is a political question. Let us look at the past to judge of the future. Where is the urgency, where is the necessity of adopting this principle? Has our legislature ever been beset by strangers, that have conspired against the prosperity of the country; against her permanent interests? Have the people ever selected unfaithful servants from the class you would prescribe? Never! But, it is not alone striking a blow at a portion of the people, you strike a blow at the whole people, if you embody this rule in your Constitution. You say to them that their choice shall be restricted. There is surely here improper restraint, and view the question as you may, you are invading the prerogatives, not only of the persons to be excluded, but of the masses—the great body of the people—who are to choose those, who in their opinion, are best fitted to represent them.

But it is urged that these restrictions are necessary. Only demonstrate to my satisfaction, (said Mr. Eustis,) that they are necessary and I will yield my objections. But I deny they are necessary. The Constitution of the United States has been referred to as a precedent. It is true that the Constitution of the United States exacts a citizenship of seven years to be eligible to the House of Representatives, and nine years to be a senator. But do, gentlemen, take into consideration the circumstances that induced that restriction? Let us examine this point.

The federal Constitution was adopted in 1787, about the period when we emerged from a long and sanguinary war. Our independence had been secured, but intestine disorders and contentions yet prevailed. We were exposed to foreign influence. The influence of England on one side, and the influence of France on the other. It was apprehended that we might be compromitted by one or the other. We had treaties to make: our foreign relations were yet to be established upon a permanent and a proper basis; and our national position was to be maintained. The Convention that met to form a more perfect and substantial union between the States, felt the importance of all these considerations, and the restriction towards adopted citizens was the result of the necessity of the times. It was concurred in with great reluctance, and we have the explicit opinions of both Madison and Franklin in favor of a course of liberality towards those that sought an asylum upon our shores, and for that rational liberty denied them in the land of their birth.

The weight of this precedent being then settled, let us next inquire into the other precedents. There are only two others. The Constitutions of Georgia and Maine contain a similar principle. In the latter the principle was adopted without debate, an evidence that little consideration was given to it. As for Georgia, the principle was adopted under peculiar circumstances. The Constitution of that State was formed in 1798. The Floridas were still under the dominions of his Catholic Majesty. The troubles in France were progressing, and threw upon our shores the tide of her emigration; and Spain was endeavoring to foment difficulties in the Western States, in order to bring about a separation of the Union: the State of Georgia touched the Spanish line, and influenced by the apprehensions that the treaty concluded about that time with Spain would not be carried into effect, a great deal of distrust prevailed, and the people of Georgia felt reluctant to accord the privileges of citizenship without exacting a residence of seven years as a security.

Does not an inquiry into the facts satisfy us that the restriction in both instances was the result of an immediate necessity, or rather a presumed necessity? but that necessity no longer existing, and the distrust at first entertained against that class of persons having been removed by a better knowledge of them, and by the practical experience that they have proved to be among the best and most useful of our citizens; why should they be proscribed and excluded? Besides, among the twenty-six States, there are but two that have sanctioned this exclusive legislation, and one of those, as I have shown, under very pecu-

liar circumstances. All the other States are uniform in making no distinctions between one class of citizens and another class of citizens.

I am of opinion that the Baconian system of politics is, after all, the true one. If politics be a science, it is the science of results. We should never reason upon exceptions, but we should base our opinions upon actual results; and in my opinion, it is better to profit by the experience of the past, than to seek to change and alter those principles of government that have never been attended with injurious results; but which on the contrary have worked to the satisfaction of all.

Moreover, what are the consequences of exclusions and restrictions? Are they not calculated to engender distrust—to create dissensions and bitterness, and to excite the ill-will of that portion of the community that are less favored? And why should we distrust any portion of our citizens? We know from experience how easy it is to excite suspicions. One of the purest and best of our public men, Mr. Madison, was accused of being in the pay of Napoleon—one of his creatures. This fabrication was believed by many. For myself, Mr. President, I have no fear of foreign influence. I do not believe in its existence. It is true there are in this city a St. Patrick society, a St. Andrews society, and the Society *des Bienfaisance*. But all these are charitable associations, and are commendable. As for political associations among our naturalized citizens, I know of none. They range themselves as other citizens under our party lines—some are whigs and others are democrats: there is as much diversion of opinion among them in relation to political measures as there are among our native citizens. I attack and defend no class. They have like all other men their faults, and their virtues, and their prejudices, and their weaknesses; but who are exempt from the general lot of humanity? There is, however, no reason for the suspicion that they are not equally attached to the institutions of the country. That suspicion is unfounded.

Take another view of the subject. This restriction would apply to a man who had lived thirty years in the country. If he were to feel disposed to be naturalized to-morrow, his residence of thirty years would count him nothing in accomplishing the four years. It has been said that the principle is uniform, and that it operates with no greater severity upon the naturalized than upon the native citizen. I deny the assertion. The naturalized citizen is already obliged to undergo a probation of five years, and after that period is fulfilled, he is met with another imperative requisition, for five years more. Where is the necessity for this rigidity? It is pretended that it is to ensure an acquaintance with our institutions. Well, may not a foreigner in the five years preceding his naturalization, make himself perfectly conversant with our system of government? Where is the use of submitting him to another ordeal? Is it not enough guarantee that a man should make of this country his home, have his children and his affections here, possess property, more or less, pay his taxes regularly and contribute to the public burthens, for him to consider himself identified with us, and expect that others should so consider him.

I am aware that the excitement raised against foreigners has been the result of our party contests; but of that I will not speak. We are not here to descend into party strifes, and into party feelings, but to elevate ourselves to the standard of truth and immutable justice. The soreness of defeat, will, by degrees wear away, and then a juster perception of things will be apparent. I know that there are some prejudices existing, and some hostility towards naturalized citizens, on the part of a portion of our population, who are intelligent and, in other respects, liberal. I regret it sincerely, but we should do nothing to aggravate that spirit. I am not the apologist nor defender of democratic principles, but this much I may say, that those principles are at the foundation of our institutions, and we are, therefore, bound to maintain them inviolably. I shall never, by any act of mine, promote invidious distinctions in the political rights to be accorded to our citizens, but shall consider all classes equally entitled to all the privileges of freemen.

In early life, (said Mr. Eustis,) I visited Europe, and I can never forget how well I was received. I was treated with attention and kindness wherever I went. I never can be insensible to the obligations imposed upon me during my sojourn, which embra-

ced a period of nearly three years; and as long as I can raise my voice in favor of the oppressed stranger who seeks a refuge in Louisiana, I shall never consent that hospitality and friendship shall be denied him; I shall never consent that our doors shall be closed against the natives of the climes that seek the protection of our better and more liberal system of government. If I do may my right arm fall from its socket. My social relations I do not permit to influence my political principles. The first regulates my private intercourse, the second determines my duties as a citizen, and as a citizen, I consider the principle under discussion unjust and impolitic. It is equivalent to telling the people they must choose from a privileged class. This is not consistent with republican instututions, and, moreover, the people will not yield obedience to this dictation. They are fully competent to decide upon the pretentions of those that seek their suffrages.

It is true that in the mass of population that come among us, there are some who may be unworthy; but their number is small. They are soon found out and are not trusted with the public confidence. When such men as the Peires, the D'Aquins and the St. Gemes, and many others who defended us from foreign aggression and invasion, seek our shores, we should indulge no species of exclusion, for fear that we may be perpretrating an act of injustice towards men as patriotic, as liberal, and as enlightened as any country could ever boast. I shall never feel any apprehension in receiving such men, let them come from where they may.

The abuse of the naturalization laws has no doubt contributed towards the distrust that has manifested itself among some against naturalized citizens. I admit, with pain and sorrow, that these laws, of late, have been violated in some instances. But to whom is blame attributable? Is blame alone to be attributed to the individuals that have been hunted up by political partizans, and by appeals of one kind and another, seduced and led estray. Are those that promoted these frauds, that knowingly caused them to be perpetrated, to escape all censure? It is unfortunate and discreditable that such things have occurred, but if the truth must be told, they have had their origin in violent party excitements. They have been stimulated by an unfortunate system of betting upon elections; here is the true secret. If all the members of our judiciary had but done their duty, these scandals never would have occurred. But because evils have resulted from our own fault, is it just and proper to punish a respectable portion of our citizens, and to exclude them from a just weight in the political power of the State?

Mr. Stephens explained the vote he was about to give, but these explanations were not audible at the Reporter's desk.

Mr. Miles Taylor moved that the motion for the adoption be laid upon the table, subject to call. Lost.

The question was taken upon the adoption and the following was the result:

Ayes—Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, C. M. Conrad J. B. Conrad, Couvillon, Derbes, Dunn, Grymes, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazareau, Prudhomme, Roman, Roselius, St. Amant, Sellers, Taylor, of St. Landry, Voorhies, Wadsworth, Winder and Winchester.—37.

Nays.—Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Culbertson, Downs, Eustis, Garcia, Humble, Hynson, Ledoux, Leonard, McCallop, McRea, Marigny, Mayo, O'Brian, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott-of Madison, Soule, Splane, Stevens, Taylor of Assumption, Trist, Waddill and Wederstrandt—36.

The President voting in the negative, it was lost.

Whereupon the Convention adjourned.

Friday, January 24, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer by the Rev. Mr. Warren.

Mr. Dunn presented a claim of Robert Perry, for the transportation of furniture for the use of the Convention, from Jackson to the Mississippi, and for an awning made for the Convention while it was at Jackson; and on his motion it was referred to the committee upon contingent expenses.

Mr. Splane complained that the reports of the debates of the Convention were not published. Great interest was felt to know the proceedings of this body, and it was

desirable that publicity should be given to them. With that view, he would propose to make arrangements with two of the city papers.

He accordingly presented a resolution for the appointment of a committee of three members to make a contract with two city papers, for the daily publication of a synopsis of the proceedings.

Mr. Guion thought that the better course was to lay the resolution on the table, until the committee appointed to inquire into the causes of the delay of the publication of the debates made their reports.

Mr. Downs referred both to the delay and the imperfect manner in the publication of the debates. He was therefore in favor of acting at once upon the subject. It was desirable that the proceedings of the Convention should appear frequently and with regularity.

Mr. Lewis was opposed to appointing a second committee, until the first one had been discharged. If the first committee be discharged, then he had no objection to the appointment of a second committee.

The motion to lay on the table prevailed.

The Order of the Day.—The Convention took into consideration section five of article second, as reported by the majority of the committee on the legislative department, providing for the places of holding the general election throughout the State.

Said motion was adopted.

On motion of Mr. Brent, sections six and seven were laid on the table, and section eight, as reported by the majority of the committee, was taken up.

Section 8. In all elections by the people, every white male citizen of the United States, who at the time being has attained the age of twenty-one years, and resided in the State two years next preceding the election, and the last year thereof in the parish or election district in which he offers to vote, shall enjoy the right of an elector; shall in all cases, except treason, felony, breach, or surety of the peace, be privileged from arrest during their attendance on, going to, or returning from elections.

Mr. Mayo offered the following substitute:

Every free white male citizen of the United States, of the age of twenty-one years or upwards, who has resided in this State one year next preceding an election, and the last six months thereof in the parish or district in which he offers to vote, shall be deemed a qualified elector, and be entitled to vote in the parish or district where he actually resides, for each and every officer made elective by the people under this State or the United States. Provided, that no person in the military, naval or marine service of the United States shall be considered a resident in this State, by being stationed in any garrison, barrack, or military or naval place or station within the State; and no person under interdiction, or person convicted of any crime punishable by imprisonment in the penitentiary, unless pardoned, or restored by law to the right of suffrage, shall enjoy the right of an elector. Electors shall, in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at and returning from the polls.

Said substitute being before the Convention, Mr. Mayo rose and addressed the Convention as follows:

Mr. Mayo said, that as he had felt it to be his duty to make some remarks in support of the substitute he had the honor to present, particularly to enable his constituents to judge of his position relative to it. He could not expect to say much upon a subject which the members of the Conventon must already have become familiar, that would enlighten men of the intelligence possessed by the members of this body.

If the importance of any subject can make discussions necessary, it is this. Though as the question is now presented, without knowing with certainty what provisions may be offered to restrict the right of suffrage, it is impossible to determine with precision what points are to be attacked, or to what restrictions an argument is to be directed. I have heard one honorable member say in his remarks on another subject that he hoped strong guards would be thrown around the elective franchise. There are two minority reports of the committee that had this subject under consideration, by both of which a residence of three years in the State is required unless the person offering to vote has a high property qualification. This he thought he had a right to consider as the opinion of a portion of the Convention, and should endeavor to combat the doctrine contained

in the provisions of those minority reports.

It can hardly be necessary to state to this body that this is one of the most important subjects that can come before this Convention. It is a peculiarity of our republican institutions that all power is inherent in the people, and can only be properly exercised, when delegated by them to their representatives.

Suffrage is the paramount right upon which rests the rights of life, liberty, and property. It is necessary to a proper understanding of this subject to enquire, first, who are the people, that according to correct republican principles should have a voice and express their wishes, in the selection of representatives. The people, strictly speaking, are all the white men, women and children, who are to be affected by the laws. It appears to be understood by all that a portion of these, from a want of the necessary age to fit them for the exercise of a discreet choice, and also women whose condition does not fit them for any participation in the affairs of government; all those who have not become naturalized citizens according to the acts of congress, and those not free, and white, shall be excluded from the elective franchise. These embrace a majority of the whole—of that whole which is embraced under the denomination of the people. How many more does sound policy require should be excluded? I can speak with certainty of the wishes of those of the particular district which I have the honor to represent; and can hazard but little in stating that their opinion is concurred in by a large majority of all the voters in the northern part of the State. The question was distinctly made, during the canvass for members to this body, and decided by the people in favor of allowing to every free white male citizen above twenty-one years of age who may have resided twelve months in the State and six months in the parish in which he offers to vote, the right of voting for all offices to be made elective by the Constitution. This is a question of liberality or illiberality to the governed, in the policy of the State. I hold that onerous restrictions upon the right of suffrage are the results either of undue power in the hands of a few, from which the many have not been able to wrest it by peaceful means, or of prejudice. The government of England is that which bears the greatest similarity to ours, of any that does now, or ever did exist, though it is a monarchy. Many learned political writers among them, Montesquieu, Burke, and John Locke, have treated it as the best practical model of government, and as approaching to perfection. That government is similar to ours in this. In both there is an executive magistrate entrusted with the execution of the laws. In both there are two bodies entrusted with legislation. In England the house of commons is elected by the people; here, both branches are elected by the people.

The two governments are dissimilar in this. That in England the sovereign power is held to be inherent in, and when exercised to emanate from the king—from a single individual; with us, it is laid down by the declaration of independence, which an eminent law writer, (Judge Story, in his comments upon the subject,) states, "is an act of paramount and sovereign authority." "That all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to secure their safety and happiness." According to this declaration, and as universally understood and acknowledged with us, government derives its just powers from the *consent of the governed.* In this the two governments are essentially different and irreconcilable. In the one all the power is supposed to reside in the king, and in the other, it is declared by an act having the force of the paramount law, to reside in the people.

In England, the office of the members of the highest branch of parliament is hereditary, and men become entitled to hold seats in the house of lords by hereditary right, whether they be fit for the office or not. With us, the highest branch of the legislature as well as the lowest is

elective, and the free choice of those entitled to suffrage, is exercised in elevating them to their offices.

Our executive is also elective. Their king hereditary, and in legal contemplation can never die.

Our forms of government for the Federal, as well as State Governments are improvements upon that of England. We have shaken off most of the impediments to the free exercise of our inherent rights and liberties, that exist in the constitution of that government: but have, from abundant caution, and I hold from some degree of prejudice, retained unnecessarily some of the onerous restrictions, which exist in the constitution of England. At the time of the formation of the constitution of the United States in 1787, no person was eligible to the house of commons in England as the representative of a county, unless he possessed a freehold estate of the annual value of 600 pounds sterling,—about $3000, consequently there were but very few in many of the counties, who were rich enough to qualify them to be chosen: in other words the right of the voter was restricted to a select few in many of the counties. This was the first important restriction upon the choice of the people. Next, no person was entitled to give his vote for a commoner, unless he owned a freehold estate of the annual value of 20 pounds, about $100. This again restricted the right of the citizen, so that not one-fiftieth part of those upon whom the burdens of government really rest, could exercise any right to choose even a member of the lowest branch of parliament. At the time of the institution of the house of commons, the people supposed, and correctly, that they had obtained an extraordinary and liberal grant of power from the monarch. It was thought liberal, because by it, a small portion of the citizens could exercise a choice in the selection of rulers, but so few can exercise it and the powers of government are so securely lodged in the hands of the wealthy, that though the oppressions were probably ameliorated, still they have not ceased; and tithes, taxes, and rents have been and still continue to be imposed upon them, that prevent them from the enjoyment of prosperity, or that degree of happiness, which man has a right to expect under a well regulated government. This system of a property qualification to render a man eligible to parliament, and to entitle a man to exercise the right of suffrage, was transferred by the sovereigns of England to America, and was provided for in the charters granted by them to the colonies in America. In the charter granted by William and Mary, in 1691, to Massachusetts, it was provided that the governor and council and representatives being *freeholders*, should be annually elected by the freeholders of each town, who possessed a freehold of forty shillings *annual* value, or other estate of forty pounds. Similar provisions are to be found in the other charters granted to the colonies. From this, it is evident that we have taken this restrictive system from England. First by a direct exercise of it by the English sovereigns themselves, and afterwards, by copying from the charters granted by those sovereigns. To show how tenacious the people of this country were of retaining the spirit of the constitution of England; the constitution prepared by John Locke for North and South Carolina and adopted by those colonies, then forming but one, will furnish ample evidence. By that, two orders of hereditary nobility were instituted. The legislature was dignified with the name of parliament.

These facts show a desire, at least, on the part of the early colonists to conform to the English system. This desire, I apprehend, has grown into a prejudice, and as the people have become enlightened upon the subject, and formed new constitutions in the several States, they have gradually thrown off the restraint, until at this time there are but ten out of the 26 States where any property qualification whatever is required to entitle a citizen to vote, and but one, South Carolina, that requires a longer residence than one year.—I have heard no serious complaints from this degree of liberality, which permits the citizen to exercise his natural right to choose those who are to make laws to govern him. What harm has been produced by it? What legislatures have been selected that have been unfit to be entrusted with the business of legislation? Or if any such have been chosen, is it fair and reasonable to suppose that if a property qualification had been required of the voter bet-

ter and wiser legislatures would have been selected? Legislatures that would have imposed less burdens upon the people, or established laws that would have tended more to their prosperity, security and happiness? I do not think that the affirmative of the proposition can be maintained.

If not, then, why not extend to all who have furnished evidence of an interest in, and an attachment to our institutions the rights of citizens? I heard it said, a day or two ago, by an honorable member in discussing another subject that, if a man were to come here from the country of his birth and say that he had a greater attachment to our institutions than he had to his own, that he would not believe him. I, on the contrary, should be inclined to believe him from the evidence furnished by the fact of his making this State his home. I should, in the absence of evidence to the contrary, be induced to believe that some considerable and important considerations were necessary to induce him to leave the country of his birth and early affections to take up his abode with strangers in a foreign land, and, should at once conclude that the attachment he had to our people and our institutions, induced him to make the change, and that attachment, and the hope of the enjoyment of prosperity here, would be to me sufficient evidence of his interest, and judging from the fact of his continuous residence here for one year only, I should believe that he liked this country better than that of his birth.

If the elective franchise be extended to all those who are embraced in the substitute, and who appear to me to have a kind of natural right to enjoy it, those disturbances and tumults, which have sometimes been witnessed at elections, will cease. The unnatural restraints which are sought to be broken, will be removed, and the rights heretofore forbidden, but to a great extent exercised in fraud of the law, will be removed.

Our present constitution requires a residence of twelve months in the county; who has demanded a change in this particular? I never heard of such a demand until I came into this body. Those who voted for a convention, I understood, to vote for it, for the purpose of having restrictions upon their rights removed—not additional ones imposed. Could I think that the safety, prosperity or happiness of the people of this State required any further restriction upon the elective franchise than the substitute now under consideration will afford them, I would cheerfully withdraw it. But with the example of sixteen out of twenty-three of our sister States, who are with no greater restrictions, and many of them with less than those proposed by the substitute, enjoying, with the utmost degree of security, quiet and prosperity, all the blessings of liberty. With the example also of the election to this convention of the intelligent body now assembled here by those who have been constituted electors, after a residence of but one year in the State, the property qualification having been evaded by the citizens. I hope that if the present proposition be not supported, I shall, at least, enjoy the pleasure of hearing the reasons for its rejection. The emigrants from foreign countries, after becoming naturalized citizens, and those who come to reside with us from other States of the Union, know when they come that they are liable to be called upon by the authorities of the State to protect and defend us, in our lives and property, and if their services should be needed, they would, I am satisfied, be found true to their duty to defend us. It is our duty therefore to court their emigration to the State. To do so we should indicate to them, that they, on coming here, and furnishing evidence of a desire to remain, will be permitted to enjoy those rights which ought to be common to all freemen, and which would be extended to ourselves and our children, were me to go to those other States where liberal systems prevail.

Mr. Grymes moved for the rejection of the proviso—lost.

Mr. Voorhies said he was in favor of the section as reported by the majority of the committee; he would therefore vote against the substitute.

Mr. Boudousquie moved that the substitute lay indefinitely on the table; and called the ayes and nays:

Yeas—Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Couvillon, Culbertson, Derbes, Dunn, Guion, Grymes, Garrett, Hudspeth, King, Labauve, Lewis, Legendre, Marigny, Mazareau, Pugh, Roman, Ro-

selius, St. Amant, Saunders, Scott of Feliciana, Sellers, Stevens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstrandt, Wadsworth, Winchester and Winder—40.

Nays—Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Downs, Eustis, Humble, Hynson, Ledoux, Leonard, Mayo, McRea, McCallop, O'Brian, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Madison, Soulé, Splane and Waddill,—27.

The question reverted upon the adoption of the section as reported.

Mr. Voorhies moved to amend by inserting the word "consecutive" before the words two years, so as to make the residence two consecutive years.

Said amendment prevailed.

Mr. Garrett moved to strike out from the fifth line to the eight. He wished to fill up the blank so as to make the section correspond with a similar section in the old Constitution. He saw no necessity for making any further change than suppressing the property qualifications.

Mr. Lewis said: Mr. President, it is admitted on all sides that we should pursue that course which is best calculated to promote the interests of the State. I will not trespass upon the time of the Convention, and will simply say a few words. However important the debate on this matter may be, I think it can be compressed into a nut-shell. We never can expect any results without compromise. The property qualification is to be relinquished, and I think properly. But there should be some condition which will afford a guarantee. Let us have some assurance that the destines of the State will not be committed to improper hands. The report of the majority of committee seems, upon this point, to approach a compromise. I should prefer three years to two, but I am willing to yield to two years in the spirit of compromise. Some gentlemen would prefer one year, others favor three years; and between one year and three years, we may well unite in a spirit of mutual concession upon two years. The Constitution of the United States was the work of compromise; without compromise no Constitution can be formed.

My friend from Attakapas, (Mr. Voorhies,) from whose excellent judgment I differ with great deference, has suggested to amend the section by placing the word "consecutive" before the words two years. I do not think that amendment would make the measure any clearer, and it is, therefore, unnecessary. I trust the section will be adopted, and that ultraism will not prevail on either side. We may meet half way, and the vital principle, of which many think in danger by substituting too short a period of residence, will be secured.

Mr. Ratliff said: I have listened, Mr President, with a great deal of pleasure to what has fallen from the delegate from St. Landry, (Mr. Lewis.) I, for one, am always ready to respond to the spirit of concession. I am of opinion that two years is not an unreasonable period. It has been suggested that if we fix upon one year, we may, in times of high political excitement, be exposed to pipe laying from the adjoining States. Loafers and vagrants may be sent among us to turn the scale at the ballot box. I see no great hardship in requiring two years residence, and I am willing to meet the gentleman upon that period.

Mr. Preston: I oppose this part of the report, fixing the residence at two years, instead of one as heretofore. I see no good reason for changing the disposition of the old Constitution upon that point. It is true that the property qualification is to be abandoned. But why is it to abandoned? Because such is the declared wish of the people; and to obtain the abandonment of that odious principle was one of the three cardinal points for which the people desired a Convention. Moreover, what is the property qualification at present? Is it not a mere nullity? But is said that if the period of citizenship be fixed at one year, many vicious persons will vote. It will be the same if the period be fixed at two years. It is impossible to attain perfection, and to preclude abuses. Vicious persons will vote, fix the period when you may, and the qulifications as you please. Give to every man in the community the greatest amount of liberty consonant with the safety of society. Place all your citizens upon a footing of perfect equality as to their political rights, and you will promote the well-being and happiness of all.

I consider, said Mr. Preston, one year amply sufficient to give us every reasonable guarantee. We have had the experience

of thirty-two years, and that experience has satisfied me that there is no necessity for increasing the period. We have, too, the experience of our sister States. In Massachusetts an inhabitant is allowed to vote without limitation of residence. In Connecticut, six months residence is only required to be a voter; and in all the new States the residence is quite trifling. Yet no harm has resulted. We find those States progressing in wealth and population. I oppose all useless and unnecessary restrictions. There is no fear that the people will not discover the real dispositions of those that come among us. Although the people of the New England States have the reputation of being peculiarly inquisitive, we are not without curiosity ourselves, and soon discover every thing in relation to new-comers. We ascertain who they are—what is their business, and what they intend to do. Men are gregarious and seek for the sympathy of each other.

Our State stands in need of population. We have immense resources, and these resources can only be fully developed by a dense population. We should invite and encourage immigration. If we discourage it, instead of flowing in upon us, it will go elsewhere. It will go to the new States of the West—to Arkansas, and even to Texas.

Pursue then a liberal policy. There is a wide field for industry in our State. Our swamp lands may be reclaimed, and even our pine barrans may, by the ingenuity and industry of man, be adapted to some culture, which will make them valuable.

Let us not be actuated by narrow-minded prejudices. Let us encourage, by the liberality of our laws, talents and industry to come among us. Let us profit by the enterprise and public spirit of all. The result of such a policy will be that our State will fill up with an industrious and energetic population, and her wealth and importance will become every day greater and greater. Her intercourse will be extended from the Allegheny mountains to the Gulf of Mexico, and from the Gulf of Mexico to the farthermost parts of Europe and Asia, even to our antipodes. Let us invite strangers with a spirit of liberality to come among us, and when we have proved them by a reasonable residence, let us freely accord to them all the privileges and all the immunities of citizenship. Our State will then become rich and prosperous. In the moment of peril, when an invader threatened to drive us from our homes, we were not so particular about residence, we were glad to receive the aid and assistance of citizens from the other States. The Kentuckians and the Tennesseeans that flew to our rescue, and risked their lives in our defence. We need not be afraid of such citizens. They have proved their attachment to us upon the field of battle, and they will always be ready to fight and die in defence of our liberties whenever they may be assailed.

Mr. Wadsworth said, I do not rise to speak for Bunkum. I do not speak for the lobbies. The gentleman from Jefferson says we must be liberal. What is his idea of liberality? How does he define liberality? If his liberality be limited by some little regard for ourselves, by some prudent restriction. I have no objection to being liberal, as is his pleasure to call it. But if this liberality be at the expense of our safety, if it endangers our well being, and places us under the control of ignorance ane folly, then I conceive such liberality to be insanity, it is madness. If an individual were to throw away his property, give it to the first person that he met, it might be considered liberal, but at the same time it would induce rational persons to believe he was a fool. The gentleman from Jefferson, in his unbounded liberality, grasps at the antipodes, and in his benign philosophy, would bore a hole to place a steam engine, so as to get at them. I would place no obstacles in the way of the gentleman, I wish him every facility in getting at his antipodes.

The gentleman from Jefferson is mistaken in the intentions that he attributes to the legislature, in passing the act providing for the calling of a Convention. I was a member of the legislature at the time the bill passed, and I did not so understand it nor vote for it. I never contemplated we should establish any such liberal system as the gentleman imagines; that we should permit strangers to intrude into our houses, take our bed, and eat up our dinner!

In voting for a Convention my design was to remedy existing abuses, particularly in reference to the ballot box, and not to ensure greater abuses by placing our institutions under the control of persons who have no identity of feeling with us, and are without intelligence and integrity.

Mr. CLAIBORNE said if every restriction appeared to the gentleman from Jefferson, (Mr. Preston,) to be an abridgement of liberty, then government itself should be abolished, inasmuch as it was restriction.

Mr. BOUDOUSQUIE found the propositions advanced by the gentleman from Jefferson so extraordinary that he could not refrain from making a few remarks. He considered that we should continue to exercise some control over the management of our public affairs, and not abandon them to the guidance of mere strangers. He was not for exacting the baptism of the yellow fever for the security of the State, as that was too frequentlya baptism that was followed by death, but he thought some reasonable residence ought to be required before we place implicit confidence in strangers. He could not consent that we should open our arms to receive persons that would undoubtedly come among us for sinister purposes. Why, eight days has not elapsed since there was an abolitionist, deputed by the governor of Massachusetts, in this very building. He never would consent to such a policy. It was, in his opinion, dangerous in the highest degree.

Mr. DUNN considered the subject of such vital importance that, for the purpose of affording time for reflection, he would move an adjournment.

Whereupon the Convention adjourned.

SATURDAY, 25th January, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

The PRESIDENT submitted an invitation to attend the exhibition of the second Municipality Public Schools.

Mr. WADSWORTH on behalf of the special committee to whom was referred the duty of inquiring into the cause of delay in the publication of the reports of debates, made a report recommending that a contract be made with one of the city papers, for the publication of said report, and that an additional reporter be appointed.

Mr. SPLANE proposed to amend the report of the committee by providing for the publications in two papers, in place of one.

Mr. WADSWORTH made some verbal explanations in relation to said report.

Mr. DOWNS complained of the irregularity of the publications, but could not yield his assent to the employment of two city papers and the retaining of the present printer. He read the conditions under which the printing of the debates had been ordered. It was evident that these conditions had not been observed.

Mr. BRENT presented a resolution vacating the office of printer of the Convention, and instructing the committee on contingent expenses, to settle with Mr. Kelly for any amount that might be due him to date.

Mr. WADSWORTH said there was a provision in the report for the appointment of an additional reporter.

Mr. BRENT: I have no objections to that.

Mr. BEATTY considered it useless to appoint an additional reporter. The gentleman who is reporter, ought to be able to discharge the duties, and would no doubt be able to do so, if his entire time were given to the Convention. But, he had understood that the same individual was also reporter to the senate. Let him resign one or the other.

In reference to the substitute offered by the delegate from Rapides, (Mr. Brent) to dismiss the present printer, Mr. BEATTY stated he was in favor of it, with a proviso, that the committee should not pay said Kelly any amount until he shall deliver up the reports to date.

Mr. BRENT had no objection to offer his substitute as a distinct proposition.

Mr. MILES TAYLOR moved to recommit the subject to the same committee, for the purpose of inquiring into the contract made with the printer, and the manner in which the work had been done.

Mr. BRENT opposed the recommitment, on the ground that it was unnecessary. The Convention were in possession of sufficient information to justify the dismissal of the printer.

Mr. VOORHIES participated in the views of Mr. Brent.

Mr. WADSWORTH was in favor of recommitting the report, in order to give the printer an opportunity to be heard. The first committee had not made an inquiry tending to the removal of Mr. Kelly, nor had they recommended that step. The proposition to remove him being brought directly before the Convention, it was not fair to act upon it, without giving Mr. Kelly an opportunity to justify himself.

Mr. RATLIFF was in favor of the recommittal, as an act of justice.

The question was taken on the motion to recommit, and it was carried in the affirmative—yeas 40; nays 17.

Mr. Peets moved that the committee be instructed to report by Monday next.

Whereupon, on motion, the Convention adjourned to Monday next, at 11 o'clock, A. M.

Monday, 27th January, 1845.

The Convention met and its proceedings were opened by prayer from the Rev. Mr. Twitchell.

Mr. Wadsworth, on behalf of the special committee to whom had been referred the subject of the printing of the debates, offered a report, accompanied with a resolution, dismissing J. A. Kelly from the office of printer to the convention, and providing for the election of another printer.

Mr. Chinn was fearful that the present resolution was premature. He did not understand from the report that Mr. Kelly was actually delinquent in the discharge of his duty. Would it not be better, at any rate, to give that officer a little further trial? The scolding that had been inflicted upon him would be sufficient to ensure punctuality for the future. The reporter, perhaps, had not been prompt in furnishing the debates to the printer, and therefore the latter might not be at fault.

Mr. Garrett moved for the postponement of the question, until Thursday.

The motion was negatived—yeas 26; nays 37.

The question was taken on the adoption of the report, and it was decided affirmatively—yeas 43; nays 18.

Mr. Downs moved the 2d portion of the resolution by saying two printers—one for the French and one for the English.

Mr. Lewis was opposed to this amendment. There were two establishments in the city, the Bee and the Courier, that were both competent to do this work in both languages. He saw no necessity for separating the proceeding in French from those in English. It was better to publish them together. This was suggested, too, by motives of economy. It was not good policy to divide responsibility.

Mr. Kenner inquired whether it was intended to give each of the printers the compensation accorded to Mr. Kelly, $1500?

Mr. Downs: I intend to divide that amount between the two.

Mr. D. then went into arguments showing the advantages of this mode of publication.

Mr. Ratliff moved to lay the resolution on the table, subject to call. Lost, 19 ayes, 47 nays.

The question being on the first part of the resolution,

Mr. Ratliff opposed it. He stated that he had not voted for Mr. Kelly, but that inasmuch as he had been elected he was not for unceremoniously turning him out. He could never sanction an act which had the semblance of injustice. The report was not explicit as to whether Mr. Kelly was at fault. Mr. Kelly was the father of a family, who were dependent upon him. Mr. R. concluded by an earnest appeal in favor of Mr. Kelly.

Mr. Dunn spoke in favor of giving to the printer some further time, to see whether he could progress to the satisfaction of the Convention.

Mr. Miles Taylor supported the report of the Committee.

The question was taken and decided in affirmative—ayes 25, nays 23.

Mr. Marigny spoke in favor of the amendment proposed by Mr. Downs, and referred to the unsatisfactory manner in which the reports had been printed in French.

The question was taken on Mr. Downs' amendment, and carried in the affirmative.

Mr. Sellers moved that the same rule apply that the reports be published at least three times a week or oftener, which motion prevailed.

Mr. Beatty moved to amend the resolution, so that $500 be allowed to each printer per ten numbers of the paper containing the debates, which motion prevailed.

Mr. Downs called for the adoption of the first resolution.

Mr. Ratliff spoke against destituting the present printer.

The first resolution was adopted.

The second resolution was taken up.

Mr. Ratliff offered a substitute appointing a committee to enquire into and report upon what terms the printing could be done.

Mr. Bevtty called for the previous question, and it was ordered,—49 ayes; 19 nays.

The question was taken on the second resolution, and it was passed.

The third clause providing for the payment of the amount Mr. Kelly was concurred in.

Mr. Brent moved that the Convention proceed to the election of the printer.

Mr. Voorhies moved that the Convention proceed, at the same time, to the election of both.

Mr. Downs called for a division of the question.

Some objections being made, the president, (Mr. Claiborne,) decided that the question was susceptible of division.

Mr. Pugh moved to save time that the president appoint the printers. Lost.

Mr. Cenas nominated Mr. Jerome Bain on, of the Courier, for the printing French.

Mr. Chinn nominated Magne and Weisse of the Bee.

Messrs. Culbertson and Downs tellers.

The following was the result:

J. Bayon : : : 40 votes.
Magne and Weisse : 29 "

Mr. J. Bayon was proclaimed duly elected.

On motion, the Convention proceeded to the election of the printer for the English.

Mr. Guion nominated W. H. M'Cardle of the Tropic.

Mr. Read nominated Besançon, Ferguson & Co. of the Jeffersonian Republican.

The same tellers were continued.

For W. H. M'Cardle : : 31 votes.
" Besançon, Ferguson & Co. 36 "
Blank : : : : 3 "

Accordingly Messrs. Besançon, Ferguson & Co. were duly elected.

Mr. Downs moved that the Convention proceed to the election of an additional reporter.

Messrs. Ratliff and Conrad opposed the motion.

The ayes and nays were called for, and the result was 46 nays—18 ayes.

Whereupon the Convention adjourned.

Tuesday, January 28th, 1845.

The Convention met and its proceedings were opened by prayer from the Rev. Mr. Beadle.

Mr. Ratliff on behalf of the committee on contingent expenses, presented a resolution authorizing the payment of $72 33 to Mr. Robert Perry, for expenses incurred by him in removing the furniture belonging to the Convention, from Jackson to the Mississippi river, and

On motion, the said resolution was adopted.

Order of the Day.—Section 8.—Report of the majority on the legislative department, which was under discussion when the Convention adjourned yesterday.

Mr. Grymes wished to explain his views in relation to the subject under consideration, and he would avail himself of this occasion to do so. The question involved was one of the highest moment; it was no less than the conservation of our institutions. Gentlemen have said that the principle in the report of the majority of the committee finds no place in the Constitutions of any of the States of the Union. One gentleman said that he would not assert the fact on his own knowledge, because he had found himself mistaken on other occasions, but that he considered that the gentleman from Catahoula had established it to a demonstration. No doubt if the argument were true, it would have great weight with the Convention.

Mr. Grymes begged the indulgence of the Convention, if in the important examination he was about to institute, he should be under the necessity of entering into dry details. So far from the principle not being found in the Constitutions of the several states, there is not a State in the Union in which this particular principle, or an equivalent conservative principle, does not exist, and where its features are not strongly marked.

[Here Mr. Grymes read extracts from the Constitutions of the several States, beginning with Massachusetts.]

In the old and respectable State of Massachusetts this conservative principle, it was seen, was embodied in the right of suffrage. Massachusetts was one of the happiest States of the Union. She owed no debt, and her people were contented and prosperous. Connecticut was another example of a State well governed, that had adopted a similar principle. By her Constitution, it was necessary that the elector should possess some qualifications, that he

should have served one year in the militia, and that he should be sworn to the proper exercise of the elective franchchise.

In the empire State, New York, so highly distinguished for her democratic principles, three years' residence is required, and other qualifications. At the time our Convention commenced its labors at Jackson, the Convention in New Jersey had just completed the Constitution of that State; between Louisiana and New Jersey there was as much difference as between the twinkling star and the sun in his meridian splendor. The natural resources of New Jersey are insignificant. Her sandy plains can bear no comparison with the rich lands of Louisiana. Well, how stands the conservative principle in that State? To be a member of the senate, four year's residence is required. To this it may be answered, that the only restriction affects the Senate.

The conservative principle is some where in the Constitution. And so it will be found that where the utmost extension is given to the right of suffrage the conservative principle is placed in some one of the departments as a check. Sometimes it is confided to the executive department, sometimes to the legislative, and sometimes it is placed to control the political powers of the State.

The State of Pennsylvania, which is a democratic State, par excellence, and which has been termed the arch of the Union, requires three years' residence for the candidate for the house of representatives; four years to be a member of the senate, and seven years to be governor.

Even the insignificant State of Delaware, which might be governed by the corporation of a city, has placed a restriction upon the qualifications of the members of the legislature; it is there that the conservative principle of the government is placed. To be a member of the senate it is requisite to hold property, and for the governor twelve years' residence is exacted.

Mr. Grymes argued that property should have its just weight in the government. It ought not to be excluded altogether, for whatever might be said to the contrary, it afforded a conclusive test of attachment to good order and good government. It contributed to the elements of virtue and independence, and promoted industry and public spirit. He should have been pleased to have seen the conservative principle maintained in property; he was willing, however, to give that up, but what he did insist upon, was that the conservative principle should be consecrated some where in the new Constitution. He was perfectly willing to adopt the new theories of democratic government, although he doubted in most cases, whether experience was not the surest guide; he was ready to follow the age, but certainly he did not wish to out-run it, and to impose upon the community hazardous and doubtful experiments.

He referred to that unfortunate course of legislation which had involved the State to an almost unlimited extent, which had impaired her resources and imposed heavy burthens on the people, and attributed to vicious and imprudent legislation. Without that fruitful source of mischief, Louisiana would now occupy a very different position. It was the part of wisdom to guard against a recurrence of those evils. Let us have some guarantee that the political power of the State will not be abused; that it may be exercised with sound discretion and directed so as to secure the permanent interests of the State.

He could not assent to the proposition of an honorable member, (Mr. Preston,) that there was an intuitive, spontaneous faculty in the human breast, to understand the principles of free government, without reflection or information, and that a man who had just put his foot upon our shores, even if he could not read nor write, was, by this intuitive knowledge, indoctrinated into our peculiar system of government. He could not discuss such a proposition, because it carried upon its face its own refutation. Some time, and even some degree of intelligence were necessary to appreciate and comprehend the character and bearing of our institutions. It required four years to learn a trade; and in the professions of law and medicine it takes fifteen years, and great study and practice before one can be well versed in the details and principles of those professions. To decide upon the right of property, and construe the laws of the country, demands age and years of experience. And will it be seriously urged that a stranger can go to the ballot box, and make a proper use of the privilege of suffrage? It was preposterous to think so. We might as well abandon all idea of government at once.

To show of what materials the population—the masses of those that were thrown upon our shores were composed, called attention to the report of the Administrators of the Charity Hospital for the last year. From this report it appeared that 4530 foreign paupers had been admitted into that institution. These would be the persons that would throng your polls, and whose necessities and whose ignorance would afford the opportunity to political parties to turn the scales of power in times of high political excitement.

Some gentlemen have gone very far, in assuming and contending for the principle that we should open our institutions to all kinds of persons, who may come among us, without restriction, and without guarantee. One gentleman places this policy upon the feeling of gratitude, with which he is inspired, because he was hospitably received while on a visit to Europe. That may be very well; and as far as hospitality is concerned, no reasonable objection can be made to its being fully reciprocated. But was there any thing more than hospitality shown to the gentleman? was he allowed a vote, and the right to participate in the political affairs of the country? Is it to be presumed that had he interfered in those matters, he would have been incarcerated in some dungeon, and very summarily disposed of. And yet it is thought extraordinary that any system of restriction should prevail in relation to persons coming from those very countries—even the slightest—where an American citizen is totally excluded from all political privileges, and would be laughed at, and perhaps imprisoned, if he were to question the policy of that exclusion.

The fact is, said Mr. Grymes, our system of government differs so materially from theirs, that there is a perfect contrast. In this country we have practical as well as theoretical liberty. A man can go where he pleases and when he pleases. But in Europe he must have his passport, and he cannot go a mile scarcely without being over-hauled and his passport *viseéd*. In every thing he is subjected to the vigilance of the law. He cannot even die in peace. He must be registered and recorded. There are a thousand petty vexations, a thousand acts of tyrannical inquisition never dreamed of by an American, until he finds himself beyond his own country.

It must not be conceived, said Mr. Grymes, that I am the enemy, or would, if I could, prevent our shores from being the asylum of all those that choose to seek them. There is plenty of room for all, thank God; but what I would insist upon is this, that we should not expose our institutions to the control of persons who are in the main profoundly ignorant of them; and that we should at least require that residence which would afford a reasonable presumption of their capacity and their virtue to participate with us in the duties and responsibilities of American citizens. In that, as in other things, I recognize the necessity of a conservative principle. Without that principle, our government must tend to anarchy, and our institution be perverted to the basest and worst of purposes.

Mr. Marigny said, I have listened with profound attention to the remarks that have fallen from my colleague, who has just addressed the House. I will therefore make no comments upon the Constitutions of the several States in regard to the particular principle upon which that gentleman dwells, and still less will I make a political voyage to Germany or to France. Other times—other measures! What suits one country does not suit another; that is generally conceded. I am in favor—decidedly in favor of the section under discussion, and I consider it my duty as a member of the committee that reported it to defend it. The old Constitution required but one year's residence, but at the same time it required the payment of a tax to exercise the right of suffrage, which last condition had become a subject of great discontent among the people. It was necessary upon that point to concede the principle; for if kings are obliged to make concessions, the representatives of a free people are bound in the strongest manner to respond to the popular wishes.

It was for this reason that the committee did not hesitate for one moment to admit free suffrage as one of the necessities of the times; and this decision was the more just, for it cannot be denied that popular elections had become a sort of monopoly, each party purchased property of little value, which they divided out among a numerous batch of voters, whose suffrages in that way they secured. This was carried so far that the true intention of the Constitution becomes a dead letter.

In sanctioning the principle of universal suffrage, the committee were convinced of the necessity of prolonging the residence, for the purpose of testing the attachment, or rather developing the attachment of strangers and citizens from the Northern States, whose laws and habits differ so materially from our own. This change of a test, considered by many as humiliating for one that is reasonable and just, has, nevertheless, not satisfied certain members of this Convention. Among others, the delegate from Jefferson, (Mr. Preston,) has taken advantage of the occassion to entertain us with a long jeremiade upon what he chooses to distinguish as the unprecedented, unjust and malicious period of two years. Where is this great injustice after all? Strangers do not come among us solely to exercise suffrage, but to engage in commerce and agriculture. If they betake themselves to commerce, we see them endeavoring to make a fortune as quick as possible; and we hear them say, so soon as that object be accomplished—"well, my object is attained. I have acquired wealth, and I will now return to the country of my birth to enjoy it." Where is the necessity of taking so much interest for persons whose designs are so selfish, and who take no heed of us or our institutions further than their personal interests may be advanced. This would no longer be liberalism but demagogueism. We would never know who were the real population and who were not. It would be necessary to be at the doors and at the windows to know what these new constituents would desire; and I have no doubt that the delagate, if he could induce you to reduce the period of residence to one year, would not be satisfied with that, but would ask you to reduce it to six months—to three months! I can never favor so unrestricted a spirit as that, because I think it contrary to the interests of the country and my constituents. Let us grant universal suffrage, inasmuch as that is the result of social progress, but do not embrace others than those that have resided two years in the State. I say this results neither from ambition nor from interest. It is suggested to me by long experience and an intimate acquaintance with men and things. Pass any amendment reducing the period, and sooner or later, you expose the community to great and inevitable dangers.

Mr. Read said he would trespass upon the attention of the Convention only for a few moments—not for the purpose of discussing this matter, which had been extensively debated, but to place the House in possession of the views of his constituents, and to explain the vote he was about to give. When the question of the expediency of calling a Convention to remodel the Constitution was first submitted to the people of Baton Rogue, out of 700 votes only 80 were cast against calling the Convention; and at the second trial, there were only 40. One of the most prominent questions that contributed to this result was the question of suffrage. His colleague and himself had explicitly declared their opinions in reference to this subject, as well as to other matters of paramount importance. In order to place the fact before the Convention, that the people sustained this reform among others, he would beg leave to read an extract from a circular issued two weeks before the election, and addressed to the constituency, whom he had the honor, in part, of representing on this floor.

"*The right of suffrage should be extended to all free white male citizens, of the necessary age and residence, regardless of any property qualification.*

"This doctrine has been warmly opposed, not only in Louisiana, but in other States and countries, by those upon whom fortune has smiled propitiously, and before whose portals the horn of plenty has poured its abundance; but the shocking inaptitude of measuring mind by dollars and cents, is so apparent, that most are obliged to yield. Some there are who may yet stiffen their necks against enfranchising the hardy sons of toil and misfortune, but their efforts will be more fruitless than the task of Sisyphus, who 'was condemned in hell, to roll to the top of a hill a large stone, which had no sooner reached the summit, than it fell back into the plain with impetuosity, and rendered his punishment eternal.' This class of men deserve a severe rebuke, for the unrighteous attempt to make property a qualification over mind. The instability of such a qualification is so great, the limits so uncertain, and the injustice so flagrant, that public sentiment has declared against it. Vice and dissipation, though sparkling with silver and gold, should stand abashed in the presence of virtuous poverty, instead

of being permitted by the sanction of laws or constitutions to crush it in the mire. The ownership of twenty-five head of cattle, under our present Constitution, entitles a man to vote, but the poor day laborer who has but one cow, is spurned from the ballot box as a mass of putridity. Even ignorance, if gilt with the precious metals, can exercise the right of suffrage, while intelligence clothed in rags must shiver in the bleak winds of disfranchisement. A thousand instances might be cited, to show the flagitious tendency of such a doctrine, but it is unnecessary. If man can *think* without property, he can *vote* without property. Such a constitutional provision is immoral: it invites to evasion and fraud, and depresses the tone of society. Give us then universal suffrage, properly guarded."

Mr. C. M. Conrad addressed the Convention in favor of the section. He was actuated by a spirit of compromise, in yielding his assent to "two years" residence. This guarantee was not as satisfactory as he could have wished, but with a Registry law, and some other checks, it would go to some extent in protecting the ballot box from violation, and preventing our institutions from improper control.

On motion, the Convention adjourned.

Wednesday, January 29th, 1845.

The Convention met, pursuant to adjournment, and its proceedings were opened with prayer.

The Convention resumed the consideration of the 8th section of the second article of the Constitution as reported by a majority of the committee.

Mr. Dunn said it was with great diffidence he arose to address the Convention on the important subject under consideration, after having listened to the very argumentative and eloquent speeches of distinguished gentlemen with whom he was associated; he was impelled to do so from a sense of duty, being fully aware of the high responsibilities under which he acted; he knew he was accountable to his constituents—his country—and his God, for every vote he should cast in the formation of the Constitution. He had been delegated by his friends to assist in this important business, and would be careful not to abuse the trust reposed in him. They had required of him no pledges—his opinions on all the leading and general principles involved were well known to them—high-minded and generous as they are, it was certain they never intended to constitute him a mere automaton in this honorable body; and he was equally certain he never would have accepted the mission on any such terms—his opinions had been formed on mature reflection, and as yet had undergone no change, but his mind was open to conviction, and he was anxious to hear the reasoning of gentlemen on all the important subjects that would come up.

He supposed every member of the Convention was desirous of ascertaining the best and wisest policy for the promotion of the general good; and that they would be guided by their consciences and judgments, and pursue the broad line of duty.

He had made up his mind to vote against "striking out," and was willing to fix two years as the residence of electors, upon condition that other guards and checks were established, for the purpose of protecting the purity of the ballot box. That as the Convention was in committee of the whole, and, freedom of debate allowable, he would give his views as to what further provisions he conceived to be necessary.

He said the first question in order was, whether the article in the old Constitution required amendment—he thought it did, and was sorry to differ with the Honorable gentleman (Mr. Preston) from Jefferson. He, (Mr. Dunn,) maintained that, to his mind, there was no article in the Constitution that calls more loudly for amendment. He said, as a conservative, he was now, as heretofore, in favor of preserving the frame work of the old Constitution, (though he had no eulogy to pronounce upon it,) and that he was only anxious to remove such parts as were defective. That experience, had proven the article under consideration to be not only defective, but humiliatingly so. It contemplated a property qualification—this he was opposed to—first, because he believed that in the improvement in government, it was an ascertained fact, that property would take care of itself—the great object of government was to protect the citizen in the enjoyment of life, liberty and property—the poor man had an interest for the protection of his life and liberty, which are more valuable than property. He strenuously opposed the idea that a man should

be disfranchised on the ground of poverty; said it was safe to trust to that patriotism which he was willing to believe glowed in the bosom of every American.

He contended that in practice, all manner of artifices had been resorted to, that man's ingenuity could invent, to avert and avoid the provisions of the article under consideration. That it has been the cause of the perpetration of the grossest frauds, and the commission of the blackest crimes; that it was a well known fact, that during the canvass in the late Presidential election, 1500 tax receipts, for some inconsiderable sums, were issued to enable the contending political parties to get around the law. However right the officer may have acted in issuing these receipts, not being disposed to impute any blame to them, as it was their business to collect the revenue and taxes on the lands, &c., yet no one can doubt the fact that these tax-payers were evading the Constitution, and jurists must agree it was a fraud upon that instrument.

A variety of other instances and means of *making voters* might be mentioned. That these practices, which are attributable to the demon of party, are ruinous in their consequences, and degrading and demoralizing in their effects upon the community, no one will dispute. Desiring then that the tone of public virtue should be elevated to the highest possible standard, can it be supposed that the people would object to providing such guards and checks as would be proper and necessary to preserve purity in our institutions, that would remove all temptations so demoralizing to man. But we have been admonished by the gentleman from Jefferson, to "let alone the rights of man." Sir, we are sent here to protect the rights of man, and not "let them alone." If the necessary checks are not established, controlling man in the path of rectitude and duty, liberty will exist only in name.

Mr. D. said it was a universally acknowledged principle, that for the purpose of protecting the rights of the majority, it became the duty of the law-maker to restrict those who could not be safely trusted with the privilege of voting. Hence our sons are denied the privilege until they arrive at twenty-one years of age, as their judgments are presumed not to be sufficiently matured to enable them to judge correctly. And females, whose education, habits and pursuits in life, separate them widely from political strife, moving in a holier and purer atmosphere, and elevated above the conflict of party politics, are of course included, notwithstanding they have great interests to be represented.

It is (he said) a question of fact, whether there is a floating population among us, who, if allowed to vote unrestricted, would prove dangerous to the best interests of the State, striking at the very foundation of her civil and religious liberty?

He believed there was such a population, and on the increase to an alarming extent. That such a population would be always found in populous cities, and insisted that it was particularly important to protect the agricultural interest against this evil; an interest that had been protected in all ages; an interest which enriches the world and rewards the industrious laborer. He said he would agree with the gentleman from Baton Rouge, (Mr. Read) that the poor man, owning but one cow, should vote; the rearing of cattle was an important business, and many of our best citizens in the country are exclusively engaged in it. He had no doubt the legislature that put a tax on twenty-five head of cattle, done so, not for the purpose of revenue, but to enable those citizens whose property consisted alone in stock, to exercise the privilege of voting. They did not intend to oppress, but to protect and elevate them. He regretted the gentleman from Baton Rouge would not go with him, and give a better and surer protection to this class of their fellow citizens, and not leave them at the mercy of a heterogeneous mass of mankind, who has no sympathy or interest in common with them. He did not wish to degrade New Orleans, he knew there was as much kindness, generosity and intelligence there as would be found in any city, and like all other cities, its population is mixed. There would always be danger of a confliction between the commercial and agricultural interest. It should be remembered that Louisiana was unlike many agricultural States; owing to its locality, the commercial interest was very great and rapidly increasing. That "luxury, avarice, injustice, violence and ambition take up their ordinary residence in populous cities, while the hard and laborious life of the planter will not admit of these vices. The honest farmer lives in a wise

and happy state, which inclines him to justice, temperance, sobriety, sincerity, and every virtue that can dignify human nature." Consequently to protect the planting interest and insure equal justice in legislation there should be restrictions thrown around the ballot box, and said if no one else did, he would propose a registry law, and a provision that no foreigner coming into the State should be allowed to vote for two years after the date of his naturalization—and that every elector should vote only at the place where he resided at the time of the election. He considered these provisions just and necessary. A register would be necessary to prevent excitements, mobs, frauds and perjuries—and would give assurance to all that there was purity in the elections.

He was far from wishing to make any odious or invidious distinctions, he was acting only in view of the necessity of the case—we had all witnessed a great political excitement—he knew that frauds had been perpetrated upon the naturalization laws. To prevent an occurrence of these things, (which under existing laws will in times of high party excitement take place again,) was his only object, and he knew of no better, fairer, or more liberal mode. If any better, could be suggested, he would adopt it. He was aware that the law of Congress conferred certain privileges to this class of the community, and he was unwilling to deprive them of their vote or of holding any office in the gift of the people after the lapse of a sufficient time to enable them to become familiar with our institutions, and identified with the country—he wished all his acts in the Convention to be impressed with impartial justice. He said the restrictions he had mentioned seemed to his mind very necessary; it was important to maintain the purity of the ballot box. It was the palladium of republican liberty. When we look back and call to mind what has occurred in our State the last year we must agree that we are not that happy, prosperous and harmonious people as formerly. The fact he said he should not be disguised that these are threathening clouds—casting their dark shadows over the brightness of our republican institutions. But he had an abiding hope, that there was virtue, wisdom and patriotism enough in the land to dispel them, and to guide the ship of State safely through the shoals and quicksands that threaten its destruction. That the star of liberty would soon emerge from behind the cloud that now dims its brightness, and shine forth again with all its native glory, lighting us to honor, prosperity and happiness.

Mr. Brent said, that he should vote to re-adopt the article of the old Constitution, striking out the property qualification required for voters. Upon this subject, there was no difference of sentiment among his constituents, and he felt that in giving the vote which he designed to do, he would represent not merely the majority which elected him, but the united and undivided sentiments of the entire population of the parish. The opinions of the people of Rapides have long been fixed and settled in favor of the extension of the right of suffrage. No diversity of sentiment exists among them, and it will be seen by a reference to the journals of the senate and house of representatives of this State, that whenever a proposition has been made to extend that right by all lawful and constitutional means, that Rapides has invariably recorded her votes in favor of it, whether she were represented by whigs or democrats.

It was true, that the announcement of this fact would not be considered material by those who imagined that they were the representatives, not of the particular constituency who elected them, but the representatives of the people of the whole State at large, and were therefore under no particular obligation to conform to the views of a particular section. But he for one could not admit that doctrine—he could not believe he was absolved from an immediate and direct responsibility to his constituents, or that he had been sent here for the purpose of representing the views and sentiments of any other people, than those who had elected him. It was his intention to represent truly and faithfully his constituency, and if gentlemen upon this floor acted differently, it was evident that the sentiments of the people of Louisiana would not be correctly ascertained. A Constitution might thus be made, directly adverse to the wishes and intentions of the people. He could not consider that he occupied the important position of a representative of the entire State

of Louisiana, and he would satisfy himself with endeavoring to impress upon the organic law the particular principles advocated by his constituents. He would leave to other gentlemen the task of representing sections of the country, whose voters had not contributed to place them in this hall. At all events, he considered himself bound to respect and observe the views of the particular parish which he had the honor in part to represent, and to vote upon this question in strict conformity with the known and unanimous wishes of the people of that parish.

There was one position advanced by the honorable delegate from New Orleans, (Mr. Grymes) to which he could not subscribe. He could not admit that personal and individual rights were inferior in importance to the rights of property. He thought that it was the chief excellency and boast of our institutions, that they regarded the personal rights and freedom of the citizen, as paramount in importance to all considerations connected with property. There were other governments, and those the most despotic in the world, where the rights of property were more securely guarded and protected by sanguinary and penal enactments than they are in this country, but it is the glory of our government that it recognizes nothing as equal in importance to the freedom and liberty of the citizen. The bold assumption that property is paramount to personal rights, to say the least, is novel, if not startling, to those who have been educated in the school of our republicanism. He entered to this doctrine his most unqualified dissent. The protection of personal liberty was paramount to all other considerations, and property sank into insignificance, when compared with this great object of government.

The gentleman from New Orleans, after passing his eulogium upon property, and urging upon us the propriety of watching its interests with solicitude, then adverted to the present lamentable and deplorable condition of our State affairs. He told us of the causes which had operated to produce this result, and he attributed it to the wild and reckless spirit of extravagance which had been fostered by evil legislation. He spoke of the creation of a vast banking capital—of an inflated currency, and of the thousand mad and ruinous schemes which had been projected by our State legislature, and which were the copious fountains from whence have flowed the evils that now impend above us. He told us that in the past there was nothing but a gloomy retrospection—in the present, nothing but grinding taxation—and in the future, nothing but a dreary and sterile waste, unrelieved by the faintest glimmerings of hope. But did not the honorable gentleman recollect, or has he forgotten, that all these evils have arisen under a property government, where the spirit of conservatism and restriction has stamped itself upon every page and section of the organic law? In the old Constitution restrictions are to be found every where. With one exception, the people are withheld from the exercise of all the political powers which justly belong to them. And even the ballot box is hedged round with odious and aristocratic restrictions. Now, how happens it that all these evils which have been depicted by the glowing pencil of the distinguished delegate, have occurred to us under the operation of a restrictive or conservative Constitution? Sir, the picture which has been delineated by the graphic hand of that delegate is but too true; and what more potent and convincing argument could he urged against a conservative Constitution than the very picture which he has drawn with such fidelity to nature. Restriction is the rank soil from which have sprung these noxious and deadly weeds. Such evils could not have occurred to such an extent under the operation of a more liberal and democratic Constitution. For as water tends to its level, as the mountain stream rushes to the river, and the river pours its tribute to the sea, even so does democracy tend to an economical administration of the government, and a rigid responsibility on the part of the public officers of the country.

But, sir, a great deal has been said about conservatism, and the importance of having conservative features engrafted in our Constitution. It is well for us, as we progress, to understand the definition of terms. What is meant by conservatism, and what are we to understand by conservative features in the Constitution? If conservatism means, as we have been heretofore told, to protect and defend the old Constitution from the changes and amendments proposed by its enemies, then, sir, so far as this section

was concerned, he was a conservative. He was for re-adopting that provision of the old Constitution which fixed the residence required for a voter at the term of one year. And although he professed no particular fondness for the old Constitution, yet it was perhaps remarkable, that he had never yet lifted his voice in this Convention, except in favor of retaining the provisions of that instrument. It was equally astonishing that the so called conservatives had been the very first to lay violent hands on the Constitution, and to alter and mutilate that instrument, to which so much regard and esteem had been heretofore manifested. When we come to discuss other proposed changes in that Constitution, it will not do for these gentlemen to talk about its antiquity, and the veneration with which they regard it. They have been the very first to destroy its character of sanctity, by being the very first to enforce important and radical changes in its provisions. But, sir, conservatism may also have another meaning. From what has been said by the delegate from New Orleans, it seems that conservatism means, any thing which goes to restrict the exercise of popular rights. If, sir, conservatism means any thing, which has the effect of taking power from the many to give it to the few, or any thing which squints towards a monarchy or an aristocracy, he wished it to be distinctly understood, that he was not a conservative. He had no lot nor parcel in it, and he washed his hands clean of any thing pertaining to conservatism.

The honorable gentleman from New Orleans, had likewise told us that the conservative or restrictive principle, runs throughout all the constitutions of the confederacy; and he has made copious quotations from those constitutions, to show that if conservatism does not exist in any one given part, it will be found in some other part of those instruments. He therefore urges the propriety of imposing a restriction in that particular article now under discussion. Sir, the reasoning of the gentleman is neither logical nor sound. The true question to be ascertained, is whether it is in this identical part of the constitution, that the other States have thought proper to locate the restriction. That they have inserted restrictive clauses in some other portion of the constitution, is certainly no argument why a restrictive clause should be inserted in the section now under debate. When we come to discuss the sections where restrictions have been placed in the other constitutions, it will perhaps be a fair argument to insist upon the propriety of similar provisions. But unless the delegate has succeeded in showing that the other States have placed the restriction upon the right of suffrage, he has entirely failed to sustain his position by the numerous quotations which he has made.

Mr. Brent said that he held in his hand the volume of constitutions from which that gentleman had quoted, but instead of reading from the constitutions of the old States, at the beginning of the work, he would read from the constitutions of the new States, to be found near its conclusion. If the gentleman really desired to march with the age, as he stated, he would not have searched so diligently the provisions of those constitutions, which were framed towards the close of the last century. He would have endeavored to ascertain what were the principles incorporated in constitutions framed more recently, as furnishing the best guide to the opinions and sentiments of the age.

Mr. Brent here quoted from the constitutions of Iowa, Alabama, Michigan, Illinois and Arkansas, and contended that a spirit of liberality characterised those constitutions, as regarded the elective franchise, which was utterly at war with the restrictive principle, sought to be engrafted on the constitution of this State.

He then proceeded to say that he did not attach much weight to the authority of the old constitutions of the confederacy. They were framed at a period, when man's capability for self government was an unsolved problem, and when the purest patriots and ablest statesmen, were doubtful of the result of our great experiment. Among these, there was, however, one illustrious exception—a man whose intellect towered above the age in which he lived, and mingled itself with the events of the coming generation—he alluded to Thomas Jefferson, the apostle of democracy; whose devotion to popular government stood, unshaken, the test of time and trial. This statesman saw earlier than others the successful issue of our republican institutions, and in his philosophical writings upon government, he has left a

priceless heritage to the young statesmen of America.

Sir, said Mr. BRENT, the doctrines which have been contended for by the gentleman from New Orleans, are the exploded heresies and fallacies of an age numbered with those beyond the flood. Even the very constitutions which he has quoted, do not sustain him in his advocacy of the restrictive feature sought to be incorporated in the present section. He advocates two years' residence as a qualification for a voter. Now, sir, what are the practice and experience of the States upon this subject? Eight States require less than one year's residence—seventeen States require one year's residence, and only one State in the Union requires two years' residence, to wit: South Carolina, whose constitution was framed in 1790, more than a half a century since. The gentleman talks of marching with the age in which he lives. Does he keep pace with this enlightened period, or rather does he not retrogade, and go back to the darkness and bigotry of 1790? Is this marching with the age, to abandon all the principles which have been consecrated in this century, for a principle which has never had a foothold among the constitutions of modern times? He left it for the gentleman to decide in what category he was placed.

It has been further contended in argument, Mr. President, that because a property qualification was to be stricken out by general consent, some other restriction would be necessary, to supply its place. It is truly consoling to reflect that gentlemen with such exalted notions of property, should be willing to abandon a property qualification. But what are the motives which have induced gentlemen to pursue this course? Is it in consequence of the convictions of their own judgment, that such a qualification was odious and aristocratic, or is it because the people have spoken trumpet-tongued to their representatives, demanding its total and unconditional abandonment? He could not undertake to speak of the motives of delegates upon this floor, but he believed he could speak confidently of the reasons which had induced the people to desire its abrogation. It was because the people believed in the logic and philosophy of Benjamin Franklin, that if you make property the basis of suffrage, it is the property and not the man, which votes; it is the inert mass of unthinking matter which exercises political influence, instead of the intelligent and responsible being, who was fashioned by the great Creator, in the likeness of his own image.

But, sir, by what kind of reasoning have gentlemen arrived at the conclusion, that because property qualification is to be abandoned, some other restriction must be substituted in its place? Of what avail will it be to remove one restriction, if it is to be superseded by another? If we advance one step forwards, and take another backwards, our position will be stationary. The people have said, that property qualification must be relinquished, but have they declared that the gap is to be closed, by another restriction, of a form and character scarcely less obnoxious? Sir, gentlemen have entirely misapprehended public sentiment on this subject. The people have desired property qualification to be stricken out, but they have not suggested the propriety of filling the *hiatus* with another restriction. That idea is purely original and native in this body.

The delegate from West Feliciana, (Mr. Ratliff,) had declared his intention to vote for two years' residence as a security against pipe-laying. The remedy does not suit the disease. To suppose that the purity of the ballot-box would be better guarded by two years' residence than one, is to suppose an absurdity. What we understand by pipe-laying is the voting in this State of persons who do not reside amongst us, but who have come here for the mere purpose of controlling our elections. These individuals stand the test of our law, and when challenged at the polls, they will take all the oaths necessary to entitle them to suffrage. It is as easy for them to swear to two years' residence as it is to one year's residence, and no guard against this specie of frauds, is provided by an extension of the term of residence. It is idle to suppose that our elections are so important that any man would come here and remain twelve months merely for the purpose of voting.

The alarm has been sounded about the danger to be apprehended to our institutions from the removal of those restrictions that now encompass the exercise of the elective franchise. Away with such chimerical and shadowy fears! I acknow-

ledge, Mr. President, (said Mr. Brent,) that I am in favor of throwing open wide the portals of this Constitution for the admission of voters to that palladium of American liberty, the American ballot-box. Gentlemen tell us of the peculiar situation of Louisiana—of its exposed frontier, and of the fact, that in case of invasion, it will be the first point of hostile attack. There was a time, sir, when the thunder of invasion rang along these streets, and when a fair opportunity was given to test the truth of the political doctrines now advocated in the opposite quarter of the house. If, sir, we had then distrusted every one, but the natives of the soil, what would have been our situation, in that hour of thick—coming peril, when the very boldest held his breath? At that period, although there were restrictions upon voting, there was no restriction upon the right of fighting, either as regarded residence or the payment of a tax; and I have been told by an actor in the memorable scenes of the 8th of January, 1815, that nearly nine-tenths of the Orleans battalion were not voters, under the restrictive Constitution of 1812. You had soldiers, but not voters in that gallant band, who drove back the heavy columns of British mercenaries led on by Packenham, and who, fighting undismayed amidst death and carnage, upheld the striped banner of our country, above the cloud and smoke of battle, and secured this city from the torch of conflagration, from pillage, and from all the horrors of a city sacked by a brutal and licentious soldiery. What a commentary was this upon that contracted spirit, which treated every one but the natives of the soil, and the property holder, as a foe to our country and to our institutions! And what a commentary is it upon that exclusive and restrictive spirit, which is now seeking a lodgement in the organic law of this State!

But, Mr. President, we have been told, that unless the door is closed against the horde of foreigners, who are annually disgorged upon our shores, that we will have Asiatic notions of government engrafted on our legislation. Sir, there is no necessity for Asiatics to come here to import Asiatic notions for the government of our people. Asiatic principles have already been adopted and acted upon in this hall. The exclusive spirit of Native Americanism is essentially Asiatic in its origin, and it is worthy of the parentage from which it sprung. Go to China, and you will find that the Chinese entertain the same opinion of their own superiority over the rest of the world, that seems to be entertained by a certain class of politicians in this State. The Chinese are too wise—too valiant and too virtuous to permit ignorant foreigners from Europe or America to interfere in the political concerns of the celestial empire. This doctrine of Native Americanism smacks strongly of the flavor of Pekin and Hong-Kong. It is much better adapted to the meridian of that empire, which is governed by the "cousin to the sun and the brother to the moon," than it is to the meridian of the free and enlightened States of the American confederacy. It suits much better the pagan and idolatrous people of Asia, than it does the christian posterity of the wise forefathers of the American Revolution. I reject it altogether as unworthy of our race, and unworthy of the age in which we live.

In conclusion, Mr. President, I have only to say that I consider the extension of the term of residence required for a voter to two years, as unnecessary and injudicious. One year is amply sufficient to test the intention of an immigrant to become a citizen of our State, and as I am fortified in this opinion by the support of the able statesmen who have framed the other Constitutions of this Union, I shall give my vote without entertaining the slightest doubt in regard to its propriety.

Mr. Downs said, that although the whole subject of suffrage was not immediately involved in the particular matter under consideration, yet as the debate had been gone into so fully, he was induced to follow the course taken by the gentleman that preceded him in the discussion. It was moreover not material when the subject was debated, or whether the discussion became general on an isolated point, inasmuch as the question was one of leading and vast importance, and would elicit a full and free investigation at some stage of the proceedings. Both of the gentlemen that addressed the House in favor of restriction—certainly one of them—had said that the question was nothing more nor less than who should govern the country. This being its inevitable result, we should not precipitate

our action, but should give to the question our serious and matured reflection. For good or for evil would be our decision. For himself, he had reflected seriously upon the question in all its bearings, and the result of those reflections had not been changed by the eloquent remarks of the delegate from New Orleans, (Mr. Grymes.)

That gentleman had assumed that the conservative principle ought to be somewhere in the Constitution. The term conservative principle was to his (Mr. Downs') mind vague and indefinite. It designates no quality and can be considered in no other light than as a relative phrase. We must know to what particular institutions it is to be applied, and as applied to one government it means one thing, as applied to another, another thing. In other countries, perhaps, it has an existence as well as here. In Russia, the conservative principle may be despotism. In Turkey, the free use of the bow-string—the cutting off the hands of rebellious subjects. But, in this free and enlightened Republic, where the science of free government has made so much progress, I must confess, said Mr. Downs, I do not know what it means. It may perhaps mean that we should be slow in abandoning antique systems and notions of government. If it means that experience has demonstrated that men are more disposed to put up with existing abuses than to seek for reforms, and that they always progress gradually and slowly, there is more danger of their submitting to old practices and to old things, too long, than their making rapid and radical changes. It will be remembered that the first steps taken by the colonies in resisting the aggressions of the parent State were of the mildest character. The natural feelings of association and attachment made them very reluctant to commit themselves to an open rupture. The colony of Virginia simply remonstrated, and it was only after Hancock, Madison and Jefferson, had declared that a bold policy was the safest course, that Dickerson, Wythe and others, who were fearful of extreme measures and held back, were induced to take a decisive stand. The danger then is, that men will hold on to old abuses with which they have become familiarized, and that they will cling to them with great tenacity through vague apprehensions and misgivings of the dangers of innovation.

We might, with as much reason insist that science should make no progress, as to attempt to arrest the progress of political government. By a parity of argument, it would be as logical to assume that the old machinery originally employed to propel steamboats was better adapted to that purpose than the new machinery, which has been perfected by experience, and that the first steamboats on the Mississippi, the Etna and the Vesuvius, were superior to the floating palaces that now adorn our port.

The gentleman from New Orleans, (Mr. Grymes,) having settled to the satisfaction of his own mind the necessity for the conservative principle, as he calls it, places that principle in a residence of two years. I object, said Mr. Downs, to this restriction upon the right of suffrage. I cannot conceive that it is at all necessary, that it is just, or that it is expedient. The old Constitution considered one year sufficient, and experience has tested that no inconvenience—that no injury has resulted, nor is it likely that any such would result, or that any one would approach the polls who was not an American citizen, and consequently clearly entitled to the franchise. I repudiate any principle that would stifle the popular voice at the ballot box. If conservatism mean any thing—if it be indeed designed for the preservation of our institutions, I know of nothing that would more effectually tend to that object than the full, fair and unrestricted will of the people through the ballot box. If there be any peculiar preservative power in our government it is the people; and to check them in the exercise of their undoubted right, is to destroy the only effectual conservative power of which I can have any idea.

The gentleman from Rapides, (Mr. Brent,) in his reply to the delegate from New Orleans, (Mr. Grymes,) had shown that restrictions upon the right of suffrage were by no means common among the States. The delegate from New Orleans had assumed that wherever restrictions existed, the States were free from debt, and possessed the best and most successful govments. The gentleman's argument had signally failed. The truth is, that upon the peril of indebtness it could not be said that the argument applied either way, for it so happened that States that had restrictions, and those that had none were equally in-

volved. That argument was therefore without force. Here was the State of Louisiana, it certainly could not be pretended that her Constitution had not been sufficiently restricted, involved in debt, and contradicting the gentleman's position. There was one thing, however, which was the result of unrestricted suffrage, and it exhibited itself in a remarkable manner. It was this, that people where suffrage was unrestricted, contributed less money for the support of their government than where suffrage was restricted. In Louisiana, more money was contributed by her citizens than was paid by the individual citizens of the other States. This fact was exhibited in a valuable publication—the American Almanack, from which he would read a comparative statement of the individual contributions in the several States.

[Mr. Downs here read the statement referred to.]

Thus, it would be seen that the citizen of Louisiana pays $1 99, four times as much in proportion as is paid by the citizen of any of the other States. It was perfectly natural that this should be the result. Where the taxes were divided among a great many, the individual contribution became less, and that was not the only effect, the emoluments of office were less. Whereas, under a restricted system of government, as in Louisiana, which was confined to a few, the emoluments of office were greater. In proof of this, look at the State of Michigan, the territory of Iowa, and the State of Arkansas. The governors of these States receive from $800 to 1,000 per annum. The salaries of the judges were in proportion, but in Louisiana, where there is a property qualification and the right of suffrage is restricted, salaries are increased, and it is difficult to reduce them. In the Democratic Address of 1842, it is shown what are the heavy burthens imposed upon the people of this State in taxes; they are four times as large as the taxation of any State in the Union, in proportion to the population. Is there a single man that will not respond to the sincere hope that something effectual may be done to relieve us from these burthens.

Now, Mr. President, is it not clear that these enormous expenses are the result of a radical defect in our system? Has not experience demonstrated this to be the case? The reason is simple; the more you restrict the government the more you confine political power to a few hands, the greater will be the expense and the greater the salaries. Confine this power to only half of the population, and the expenses will be much larger; but go still further, and confine it to one-fifteenth, one-tenth of the population, and finally place it in the hands of ten men. You will find that there will be enormous salaries, and the patronage will be so appropriated as to perpetuate power. Look for example at other countries—at England and France. In England, where the right of primogeniture is still maintained, and there is a house of lords, a monarch to be kept on the throne—look at the salaries and the expenses of the government; the salaries for the judges, the money spent to keep up the state of the bishops, who do nothing—and to support a bloated nobility, who by hook or by crook, must have the means of gratifying their extravagant habits—look at the national debt, to pay the very interest on which, it is beyond all anticipation to pay the capital,—the people have to be subjected from time to time to additional burthens, and are ground down by the weight of these exactions.

Nevertheless, this is a government of property holders, where property is the chief object of protection. The political power is in the hands of a few individuals, and although the country is thoroughly cultivated and is a garden spot, all its means are monopolized by the favored few, while the many go without the very necessaries of life. And yet an under secretary, or an attaché, gets as much salary as most of the important officers in the United States.

I cannot concur, said Mr. Downs, that property should be the sole object of protection in a government? That property should be the only consideration. I do not recollect the phraseology of the gentleman, (Mr. Grymes,) but this I gathered to be his meaning. I do not say that it should not have its proper weight; it will always have that, but it should not be considered paramount and supersede the protection due to personal rights. If protection to property be considered the evidence of good government, then despotic governments frequently are good governments. I doubt much whether property is more secure in this country

than it is in England, Austria, Prussia and France; for mere protection to property, these governments answer as well and perhaps better, than that of the United States. In Prussia a considerable amount of the revenues derived from taxation, goes to support an admirable system of public schools, perhaps the most perfect in existence. But there is something more important than mere property, which should be the serious object of governmental solicitude. There are personal rights to be guarded. There have been revolutions to protect personal rights, but none to protect property. In the early history of England, we find the *habeas corpus* extorted from a reluctant monarch, and what was that for? To protect the liberty of the subject. It was to place the subject under the protection of the law, and to rescue him from tyranny and oppression. That power should not invade personal rights, and drive the innocent victims to the gallows. Suppose there be but two classes, those who have property and those who have none. The property holders will never be imposed upon, but those who have no property will be subjected to contributing money, and will likewise be called upon to contribute personal services. In the event of a war, property holders will not risk their lives; they will not be enrolled in the militia, but will so frame the laws as to shuffle off that dangerous duty upon the laboring classes; they will send them, the poor devils who have nothing to lose, and who have no body to care for them. It is the laboring classes that now form the bulk of the militia; that perform fire duty, and if they are denied all voice at the ballot box, and are to be destituted of all political rights, why then they will soon be under the despotism of the property holders. On the other hand, there is no danger from the poorer classes; they have always been the defenders and protectors of the property of the rich, and will ever be so. All they ask is for a fair participation in the civil rights of citizenship. Property and money are power, and will always exercise a sufficient control over the poor, without denying to them a voice in the administration under the plea that they are the rabble—poor devils, and should have no lot or part in the laws made to govern them, except implicit and blind obedience to the behests of the rich and powerful. There is no necessity, no true wisdom, in degrading the poorer classes and placing them on an equality with slaves, by denying them the most important privilege of freemen.

These doctrines are not new to me. I have advanced them long ago, and to dispose of this part of the subject, in a word, I will read an extract from a report made by me as chairman of the committee of the senate.

Now, Mr. President, from these hasty views, where is the danger of extending to all classes of American citizens the privilege of suffrage?

A friend has just placed before me a list of all the States, with those that have become involved by heavy loans.

[Mr. Downs here read the extract referred to.]

From this statement it will be seen that there are fewer States that have anticipated their resources, and fettered themselves with debts, with the privilege of unrestricted suffrage. The ratio is about as five to one. In some of the States, where suffrage is free, have property holders suffered; nor have the poorer classes, invaded as we are left to infer from the argument of the delegate from New Orleans, (Mr. Grymes,) the inviolability of property; property has been as secure in those States, as in the other States of the Union. I do not myself attach great weight to this argument, but inasmuch as that gentleman has attempted to argue the question upon precedent, I have met him on that ground. I confess that he has poured forth such a torrent of eloquence that I knew of no better way of dispelling the effect he may have produced than by turning against him the very facts that he has advanced.

Great allowance must be made in the consideration of his views, for the fact that he comes from a State which though democratic as regards the policy of the general government, has always been restricted in her local policy. It is impossible for us to eradicate entirely our early impressions, and the prejudices we may imbibe for particular localities. Virginia although she has occupied a conspicuous place in national politics, and that too in favor invariably of democratic principles, has made less progress in those principles as regards her State government than any State of the Union. She has clung with singular per-

tinacity to the peculiar aristocratic notions which were engrafted upon her political condition during the early period of her settlement and while she remained a colony. Hence she has not kept pace locally with democratic progress, and has shown a singular aversion to carry out those principles. In 1839, her Convention assembled to remodel the Constitution, and it is not saying too much to assert, that there were more talented men in that convention than any other that has assembled since the formation of the federal Constitution. Yet it is equally certain that they were afraid of making popular reform; they were so wedded to the particular state of things, although, in some respects, avowedly anti-democratic and repugnant to the progress of democratic principles, that they made as few and as slight modifications as possible. To illustrate in a strong point of view this antipathy to innovation and to show what was the Virginia conservatism in the earlier part of her colonial history—in 1671—I will mention a fact related of Gov. Berkley. In speaking of the New England States, that had at that early period evinced their desire for public education, he thanked God there were neither free schools nor printing presses within his colony—for learning created disputation and disobedience, and the printing press promulgated them. Governor Berkley was not the last of the conservatives—there are many more whose views are almost as limited in 1845!

The gentleman from New Orleans, (Mr. Conrad) had referred to the authority of Mr. Madison in favor of restriction. No man entertains a higher opinion of that eminent statesman than I do, and is disposed to give more weight to his authority. Since the member from New Orleans, (Mr Conrad,) quoted Mr. Madison, I have examined his recorded opinions to see how far they could be construed as favoring a restriction upon popular suffrage. With the permission of the convention, I will read a few extracts from his notes.

Extract from the Madison Papers.

"These observations" (see Debates of August 7th 1787—the same referred to by Mr. Conrad) do not contain the speaker's more full and natural view of the subject which is subjoined. "*He felt too much the example of Virginia.*

The right of suffrage is a fundamental article in republican institutions. The regulation of it is at the same time, a task of peculiar delicacy. Allow the *right exclusively to property and the rights of persons may be oppressed.*

In civilized communities property as well as personal rights is an essential object of the laws, which encourage industry by securing the enjoyments of its fruits—that industry from which property results, and that enjoyment which consists not merely in its immediate use, but in its posthumous destination to objects of choice and of kindred and of affection.

In a just and free government therefore the rights both of persons and of property ought to be effectually guarded. Will the former be so in case of a universal and equal suffrage. Will the latter be so in case of suffrage confined to the holders of property? * * * * It is nevertheless that there are various ways in which the rich may oppress the poor, in which property may oppress liberty, the world is filled with examples. It is necessary that the poor should have a defence against the danger.

Mr. Madison, it would be seen in a vote without date in the appendix, reconsidered what he had advanced and promptly admitted he had gone too far. In one place he uses this remarkable language, "*there are many ways in which the rich affect the poor.*" That, Mr. President, is our very doctrine.

I could, said Mr. Downs, read other extracts from these very interesting papers were I not apprehensive of fatiguing the Convention.

[Cries of go on, go on.]

In the 3d vol., on the same subject, during the Virginia Convention, in 1829-30, Mr. Madison holds the following language:

"Were the Constitution on hand to be adapted to the present circumstances of our country, without taking into view the changes which time is rapidly producing, an unlimited extension of the right would probably vary little the character of our public councils or measures. But as we are to prepare a system of government for a period which it is hoped will be a long one, we must look to the prospective changes in the condition and composition of the society in which it is to act. * * * * *

* * * * It must not he supposed that a crowded state of population, of which we have no example, and which we know only by the image reflected from examples elsewhere, is too remote to claim attention. * * * * * * * Supposing the estimate of the growing population of the United States to be nearly correct, and the extent of their territory to be eight or nine hundred millions of acres, and one-fourth of it to consist of inarable surface, there will, in a century or little more, be nearly as crowded a population in the United States as in Great Britain or France, and if the present Constitution of Virginia, with all its flaws, has lasted more than half a century, it is not an unreasonable hope that an amended one will last more than a century."

Thus it will be seen that Mr. Madison's original opinions upon the subject of popular suffrage were reversed upon mature reflection; that in the first instance he frankly acknowledged he felt too much the example of Virginia, and asserted "that if the rights of suffrage were restricted to property, the rights of persons might be oppressed." At a still later period of his life, in 1829, when he had attained an extreme old age and had retired from the service of his country, from which retirement he emerged only for a temporary purpose, he reiterated substantially the same opinions, but from the apprehension of the great increase of population and the changes that time are rapidly producing in the condition and composition of society, he fears the result. He still, however, repudiates the idea that property is every thing, and persons nothing. He re-affirms the same views that he had expressed in relation to a speech made by him in the federal convention, as being his more full and matured thoughts. In a note to that speech he says, "persons and property being both essential objects of government the most that either can claim is such a structure of it, as will have a reasonable security for the other." In 1829-'30, he says, "it cannot be expedient to rest a republican government in a portion of society, having a numerical and physical force, excluded from and liable to be turned against it, and which would lead to a standing military force, dangerous to all parties and to liberty itself."

If we are, indeed, to be subjected to "this conservatism principle," let it be declared not only to this house, but to our constituents. If we are to be under a despotism—if we are to be hung up at the yard arm, and be reduced to a state of society which will require a military force to coerce obedience, the sooner that intention be proclaimed the better. If property be every thing, it must be protected under a despotism, at the point of the bayonet.

Surely such were not the anticipations of the fathers of the revolution. Surely such is not in accordance with the genius of our institution; they never designed to protect property at the expense of personal liberty. Property is sufficient to protect itself; it is an element of power, and will and can defend itself. If left to itself, no apprehension need be entertained that it will be assailed. Property will not only be safe, by leaving suffrage unrestricted, but it will become safer. And not only will that be the inevitable result, but taxation will be reduced by extending the sphere of the elective franchise.

I most firmly believe that the extension of suffrage will be followed by a reduction of public salaries. As to what the legislature may have accomplished in reducing salaries, it amounts to little or nothing. I do not think that their intervention can be counted upon for any thing effectual. The system of high salaries is beyond their control under existing circumstances. It is true there have been some slight reduction: that the salary of the governor and some of the judges have been cut down, but it is equally certain that the great body of municipal and parochial changes were in great disproportion with the resources of the people. If a bill be introduced in the legislature for the purpose of making reductions, the officers that it may effect, bring all their power to bear in order to defeat it. I do not wish to be understood as intending application of these remarks to particular persons, I merely narrate the facts as they are. If the bill pass in one branch of the legislature it invariably fails in the other, and so are retrenchments staved off from year to year.

To exhibit the exorbant charges of public officers, he (Mr. Downs) would state a case in point. A respectable citizen of New Orleans had instituted a suit against a delinquent tenant, and siezed the furniture subject to his claim. The various processes

of the law having been complied with, the officer presented him an account of $40 over and above the amount sued for.—The whole charges of the city were excessive. Some steamboats paid as much as six thousand dollars, and from that amount down in proportion. Of course, the people of the country, contributed to this heavy tax. For all these abuses there was but one remedy—the power of the people—extend the right of suffrage, so that every man may declare through the ballot box, whether it be his will to submit to such onerous exactions. That is the only certain way of affecting retrenchment and economy. The expenses of government are four times as large in Louisiana as they are in her sister States. The judges of our supreme court were paid $500 more than the judges of the supreme court of the United States, and many other salaries were upon the same inflated basis. As for the argument, that without holding property one could not feel an interest in the community, it had no validity, There were considerations—there were ties more powerful than mere pecuniary interest.—There were few men however that had not some pecuniary interest involved, and to his conception, a man would be as devoted to the country with $1 as $10,000.

If you admit the property qualification, then you must admit the graduation of that qualification. If a man possessed of $10,000 is more interested in the destinies of the country than one who has not a dollar, then he that owns $50,000 must be still more interested than the first, and so on according to property. If a man with fifty negroes has one vote, he that has one hundred ought to have two. Money then should become the measure of talent, and your Jeffersons, Jacksons and Clays should have given place to some foreign Rothchild, who would have made upon that principle, a public officer, one hundred times better, because he happeneed to be one hundred times better off. Talent should be proscribed and money-bags take its place. Such an argument carries upon its face its absurdity. The people in electing the highest officers of the government should not take into consideration the services and qualifications of the man, but should examine his strong box to see whether he was the richest citizen and possessed of the maximum qualification.

The people were the best judges of the capacity and fitness of their public officers. They should be left unrestricted, and no American citizen having resided in the State a reasonable period, should be denied the privilege of suffrage. The old Constitution had fixed the residence at one year, and it ought to be maintained. The only thing that was really objectionable was the property qualification, and that odious distinction being swept away, its place should not be supplied by another as unnecessary and as invidious. No separate class should be built up in our community with a patent nobility, with peculiar privileges that were denied to other citizens through narrow-minded prejudices and artificial distinctions.

Mr. Downs concluded by hoping that each section of the Constitution be taken up separately, and decided upon its own merits.

Whereupon the Convention adjourned.

Thursday, 30th January, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened by prayer, from the Rev. Mr. Nicholson.

Mr. Scott of Baton Rouge, asked for leave of absence, for Mr. McCallop of the parish of West Baton Rouge.

Mr. Voorhies objected.

The question was taken, and leave was granted.

The President submitted an invitation to the Convention, from the officers of the People's Lyceum, to attend a discourse to be pronounced by Professor McCauley.

Mr. Roselius called the attention of the Convention to an invitation to attend the examination of the public schools of the second Municipality, to-day at 12 o'clock.

Mr. Dunn hoped that the business of the Convention would be suspended at 12 o'clock, to enable them to assist at that interesting exhibition. The subject of education would no doubt claim the serious consideration of this body, and no opportunity of becoming acquainted with the details of the present system of public schools in the city, should be suffered to pass unimproved. He therefore moved that the members of the Convention proceed in a body.

Mr. Lewis objected. He said no man certainly had a higher regard for public education than he, or would go further in promoting it. But he could not consent that the important objects for which the Conven-

tion were assembled should be arrested, and that several hours should be lost. If individual members wished to attend, it was within their discretion to do so, but for one he was opposed to a cessation of the business of the Convention.

Mr. Culbertson said that, inasmuch as the invitation had been accepted, and arrangements had been made for the reception of the Convention, it would appear not altogether consistent or courteous to abstain from attending. If we had declined the invitation on account of our public duties, our motives would have been understood and appreciated, but it appeared rather late to urge that as an objection now.

Mr. Lewis inquired of the Secretary whether the invitation had been accepted. The Secretary replied that no motion had been made for its acceptance.

Mr. Culbertson: Then I labored under a misapprehension.

Mr. Roselius: I move that it be accepted, and that we proceed in a body at 12 o'clock.

Mr. Voorhies said he would call for the yeas and nays. He admitted that education was an object of great public utility, but at the same time the Convention were not assembled to go about visiting public institutions, however meritorious they might be. It should not be forgotten that the expenses of this body were $600 a day, and we should, therefore, economize our time, and get through our duties as quick as possible.

Mr. Splane said that he felt under the necessity of voting for the resolution, as it had been the general impression, both in and out of the Convention, that the invitation was accepted: that it was not expressly accepted, and our acceptance recorded upon our journals, was a matter of pure accident. Preparations have been made, and the Convention is expected to attend. He must, therefore, vote for the resolution.

Mr. Dunn: This is no common, insignificant matter; no holiday show; but an object of vast and incalculable utility. The Convention could not better employ its time than to give its public countenance to a plan of education that embraces the whole of our population. If our institutions are to be preserved, it must be through the intelligence of the people, and the general diffusion of knowledge. Without that, our institutions are not worth one straw.

Mr. Lewis admitted the importance of public education, but thought the members of the Convention, whether in their official or individual capacity, could give it their countenance as well without as by attending this exhibition. If the peculiar duties of the Convention permitted it, he would cheerfully attend as a private citizen.

He would move for the division of the question, and would vote affirmatively upon the question of acceptance, as that he considered *pro forma*. Upon the question to attend in a body he should vote negatively.

The question of acceptance was agreed to without a division. Upon the motion to attend in a body, Mr. Voorhies called for the yeas and nays—yeas 27—nays 34.

Order of the Day.—The Convention resumed the consideration of the 8th section of the 2d article of the Constitution, relative to the qualification of voters, which was under discussion when the Convention adjourned yesterday.

Mr. Lewis said: When the Convention adjourned yesterday, I designed making a few observations in reply to the doctrines advanced by the member from Ouachita, (Mr. Downs) and the member from Rapides, (Mr. Brent). The particular question now to be voted on, must necessarily enter but little into the discussion in which we find ourselves. It would, more properly, be upon the principal question than upon the isolated point, whether the residence should be one year, two years, or more. The range of debate has been so extensive, and I differ so far from those that oppose the section, and in some respects from those that advocate it, that, once for all, I shall state my views upon the subject. In sustaining a proposition which is designed to establish the corner stone of our republican institutions, I hope I may be indulged if I travel, in legal parlance, occasionally out of the record, and follow the example of the gentlemen that have preceded me, with whose opinions I find myself unable to agree.

In the outset I will premise that there is one proposition of the delegate from Ouachita, (Mr. Downs), with which I agree. I think, with him, that the property qualification should be swept away from the right of suffrage. I have reflected upon the subject for many years, and the conclusion to which I have arrived is, that this restriction

is not in unison with the progress of the age and the present condition of representative governments. Why concede the right of self-government, and deny its exercise to every individual member of the community? Many arguments might be adduced in favor of the right to suffrage, without reference to property, but I conceive it to be unnecessary. While I agree upon that point, I cannot consider how a government can exist without restrictions upon the will of a bare majority. It is for the protection of the majority, as well as of the minority, that there should be some positive restraints. No government can exist and be effectual without those restraints. It would have no more strength than a rope of sand. It must must have some fundamental principles—some conservative power to maintain its existence. I contend that this conservative or preservative power is essentially necessary to its well being, and that no government can succeed without it, however it may be ridiculed. I shall not descend to notice that species of argument. The idea that such a notion should be entertained has been treated with a great deal of levity; and such definitions have been given to the word conservative, as suited the purposes of those who made them. I repudiate the definitions that have been assigned.

There is another preliminary point to which I would refer. One gentleman assumes that the individual members of this body are the representatives of the whole State. Another gentleman contends that each representative is the representative only of his particular parish. In this case, as in most others, I think the truth is to be found between the two extremes. We are here first, to represent the interests of the sections of the State from which we come, and next, to consult upon and represent the general interests of the whole State; and reconcile sectional interests with general interests. We are to preserve the rights of our immediate constituents, and do justice to the rest of the State.

We must not, said Mr. Lewis, suppose that we are wiser than any other body that has ever assembled for the purpose of fixing the constituent basis of government. If we expect to arrive at any definite result, we must yield up our peculiar views, if it be necessary—in plain words, we must compromise our differences.

The assertion in the Declaration of Independence, that all men are born free and equal, cannot be understood as implying a perfect equality of rights in society; for, if this were so, women and minors would not be excluded from participating in governments. The enjoyment of individual liberty under governments can neither be unlimited nor uncontrolled. The extent of liberty, and the duration of society, is dependent upon the wise restrictions that are imposed; or, in other words, upon the conservative principle, upon which must rest the foundation of the social compact. I cannot, therefore, subscribe to the opinion of the member from Ouachita, that we should take the Constitution, section by section, and decide upon each according to its merits. On the contrary, in my opinion, we should make it have a general correspondence in all its features: there should be no contradictions, but all its dispositions should be in perfect unison.

The examples, argued Mr. Lewis, that have been drawn from history, to sustain the assertion, that revolutions in the political world have invariably been occasioned by restrictions upon personal liberty, are not altogether exact. The revolution which precipitated Charles the 1st from the throne, was not occasioned by restrictions upon personal rights, if we except some abuses of the star chamber, but rather by the extravagant contributions levied upon the people—the heavy taxes that were imposed. As to the abuses of the star chamber, they were a matter of but secondary consideration. But the principal and main cause, was the excessive taxation, attempted to be levied without the assent, and with the reprobation of the house of commons. As for personal liberty, it is notorious that the English people enjoyed more personal liberty at that time than the other nations of Europe. It was the want of the conservative principle, when the King attempted to levy taxes without the consent of parliament, that led to the change of government, and finally enabled Oliver Cromwell to establish a despotism, the natural consequence of anarchy. The government was only brought to its equipoise, and the popular liberty established, under Charles the II, when the conservative principle was restored.

Look at the pages of history during the

sanguinary revolution in France. There we find a faithful picture of an unrestricted, unlimited popular government. The government of the mere majority—of brute force. The monarchy and aristocracy were struck down with one blow. It was said by the demagogues of that day, that pushed the people to excesses, that the age of gold was at hand. The worst passions of human nature were excited, and every thing done to uproot the foundations of society, and to replace them by the mad dreams of political zealots. Human life was sacrificed with the utmost apathy, and the earth was deluged with blood. From the omnipotent voice of the populace rose the fatal cry, to the guilotine! to the lanterns! Death was the portion of all that did not bow the head to demagogueism; and that era of liberty, which was described as the realization of the perfectability of human government, was followed by the reign of terror!

These examples, it may be said, apply only to monarchies; but I contend that men are but men, whatever their institutions may be, and are more or less under the influence of passion, and the sudden outbursts of excitement. The same causes produce the same, or similar effects, and when is it borne in mind, that these and similar horrors which history presents, of the fallibility of our species, are the result of license and of distempered notions of liberty and equality; we should reflect seriously upon the possibility of similar occurrences, and not permit ourselves to be carried away by mere theories and abstractions. In republican governments, which in one sense are essentially the governments of the people, we should establish certain definite principles, which while they secure the expression of the popular voice, and give to us all the benefits of republican institutions, will restrain any outbursts of sudden passion, or any abuses which the majority, under temporary excitement, may be disposed to commit; and which will maintain the vested rights of the minority. There should be some bulwark to resist the waves of popular tumult, beyond which there would be safety and ropose ; some conservative power which would ordain "thus far thou shalt go, but no farther."

Mr. Lewis said he would make a few remarks that properly did not belong to this subject. The principles of native Americanism had been expressly assailed by an honorable member, (Mr. Brent,) who had attempted to cast ridicule upon those principles, by representing them as being of Asiatic origin, and as being worthy of the children of the sun and brother to the moon. That gentleman had gone still farther, and asserted that the native American party of Philadelphia were the authors of what he termed a most disgraceful outrage upon the rights of naturalized citizens; and not only that, but that they had desecrated the temple of the living God. These were, said Mr. Lewis, the substance of his charges; and as a native American—one proud of that title, I take this occasion to defend the principles which he thinks so odious, and which in his opinion have suggested so unparalelled an outrage. I deny that there is any thing in the event to which he refers, that can attach the slightest odium to the native American party. What are the facts in relation to those riots? Who were the first aggressors? There is nothing in that occurrence for which the native American party cannot justify themselves before God and man! A body of native Americans had assembled in their own country, to discuss a question of public concernment to themselves, as native Americans; and were attacked and threatened by a band of foreigners. The room where they met was invaded, and they were threatened with being driven out. They did meet, and this foreign rabble attempted to eject them. Was not that sufficient to arouse them, and to provoke their retaliation? Were the rights of American citizens to be trampled on with impunity? If there were bloodshed and arson, be the fault on those that were the cause. I am sorry that these charges are made in this house, by a native American. But, as a native American, I repel and throw them back!

To return to the question; I do not say that property should alone be protected. Personal rights are more sacred, but both should be an object of solicitude. Individual interest demonstrates that if an association of men were to select a person to conduct their private affairs, they would prefer one having a common interest with them, to an utter stranger, who had nothing at stake. It is those that are interested, those who are liable to contribute to the

support of the government, that should be entrusted with the important duty of making our laws, and of regulating our taxes, one of the most important functions of government; and it would be folly to commit to those having no taxes to pay, nor any identity of interest, the power to impose public burthens. The power of taxation is one that never can be properly exercised without the consent of the taxed. In our conflict and separation from Great Britain, the imposition of taxes without representation, was one of the principal causes of complaint. The colonies were taxed without being represented.

In deciding the question of who are to be the depositories of poltical power, it behooves us to have a care not to entrust the administration of the government to irresponsible persons, who have nothing to lose, and who being at the bottom of the wheel, cannot be worse off—who have every thing to gain and nothing to lose.

I shall not attempt to answer the comparison instituted by the gentleman from Ouachita, (Mr. Downs,) between the superiority of a steamboat now, and one in the infancy of steamboat building; by which he attempts to make an analogy in the science of government. I find no analogy in the comparison, and I shall not waste time to consider it. Past experience have convinced me that man is incapable of governing himself, without restriction; in fact the very term government, necessarily implies restraint. The founders of our institution saw the necessity of restrictions—of checks and ballances; and it becomes us to profit by the experience of the past, as well as by their experience.

As regards the right of suffrage, it ought to be extended to all those who offer by residence and by association the presumptive proof that they are identified with us and attached to our institutions. But to grant suffrage indiscriminately, to persons who are foreign to us in sentiment and feeling, as well as by birth and education, would be an act of consummate folly, for which we would pay very dearly. The Roman republic, whilst it confirmed the perogation of citizenship to its own citizens and preserved the conservative principle, maintained its exalted position, but when in the progress of time, it extended that privilege to foreigners and strangers, it weakened its power; and from that period began its decayance in public spirit and virtue. At one time the title of a Roman citizen was the proudest that man ever boasted. In the remotest quarter of the world it paralyzed the arm of oppression. At first the distinction of Roman citizenship was conferred upon a few strangers, but as no immediate evil resulted, the privilege was extended far and wide, until the Roman citizens proper disappeared among the hordes that pressed upon them. It is to to be hoped that such a destiny is not reserved for this republic!

One word as regards citizens of other States. We are forming a constitution of Louisiana—not a constitution for the several States, and one half of Europe. It is proper for us to say, upon what conditions we shall allow persons among us to participate in political power: as for all other privileges they are amply accorded; but when it comes to making our laws and carrying them into effect, we should surely have some guarantee of fidelity; and no right judging man, that desires the perpetuation of our institutions, will think it unreasonable to remain two years to qualify himself before he goes to the ballot box to deposite his vote and to take a share in the destinies of the State. I certainly entertain no prejudices against our fellow citizens of the other States. I consider them like ourselves Americans, and attached as we ought all to be to our common country and to our glorious Union. But there are in some of their local institutions and ours an essential difference—there is a dissimilarity between our systems of law and theirs, especially as regards minors and married women, and before they can understand these differences and appreciate them, they ought to reside among us for some time. Is two years an unreasonable period? I think not, and no man of experience will think that it is, who reflects that constitutions are not formed for exceptional cases, but for universal application; and however eligible some might be to citizenship by their preconceived notions, it would be an unsafe rule to take these as our basis for action.

As regards foreigners, I must say that I view their eligibility to citizenship under the laws of the United States as exceedingly unfortunate. Those laws I would have repealed in toto. But, inasmuch as

they exist, I am for respecting them. It is my deliberate conviction that out of twenty foreigners who immigrate to our shores nineteen would not make good citizens. The twentieth may be every way deserving. There are some that come amongst us that are deserving. But the great mass are the rabble, the dissolute and the vicious: the pauper and the ignorant. A few of them make good citizens, but precious few. I think it better to give up the twentieth man, that possesses qualities that would make him a good American citizen, than to take the nineteen that are without a solitary requisite. The love of country is emplanted in the human breast. It is an impulse bound up with the strongest ties. It is posssible that a man born in another country and raised in another clime may love the country of his adoption as well as the country of his birth. But it is barely possible.

Mr. Miles Taylor said, he rose to submit his views with great deference. The question before the Convention was of itself very narrow, but as auxiliary points had been brought into the discussion, and opinions had been expressed from which he differed, he begged to state the grounds of difference.

Before entering into an examination here we should regulate political power, and to whose hands we should commit it. I feel myself called upon, (said Mr. Taylor) to refute the deductions drawn from certain premises, or rather I may say the premises themselves, which have been invoked, to show that it would be dangerous to establish a government dependent upon the will of the majority, unchecked by restrictive powers. The revolution in England by which Charles the 1st was dethroned, was not occasioned, as supposed by the delegate from St. Landry, (Mr. Lewis) through the obstinacy of that monarch to govern without the intervention of parliament; no more was this so, than the afflictions of the republic were the natural consequences of the government of the people. A bold and daring aristocracy, anxious to maintain their privileges which constitute a fraction of the country; for the popular representation at that day was no more than it is at present, a fictitious representation, overthrew the king and suffered him to be conducted ignominiously to the scaffold. It is true that this revulsion was followed by the establishment of a republic under the lead of a man as able as he was hypocritical, and that so far from producing the beneficial results which were anticipated, it stimulated greater abuses and occasioned greater suffering. But the people in whose name and for whose benefit the revolution was professedly begun, were not at fault; they contended with all their might against the oppression, but it was in vain, as they were divested of their power. It is a mistake to cite the protectorate of Cromwell as a consequence of the disorders which were the result of popular government. The same remark applies to the more recent revolution in France. The first constituent assembly in France exhibited great judgment, and made their reforms with proper deliberation. But, when the king and the nobility undertook to defeat these reforms and to betray the cause of the people, by deserting to the enemies of the country, as were shown by the flight of the king and the coalition of the European powers in concert, the people justly indignant, retaliated, and from one extremity to another they proceeded until they reached the reign of terror. We have been told that the mob at Philadelphia was excusable, because they defended the privilege of American citizens. For a much stronger reason should we exempt from censure a people who were exasperated by the connivance of their sovereign in a sudden invasion. I am not an apologist for the disgraceful riots at Philadelphia, nor do I wish to be understood as justifying the horrors of the French revolution. All that I contend for is this, that the French people were provoked, irritated into the acts of violence which they committed, and which degraded their cause. But so soon as their enemies attempted to coerce them their dissensions ceased, and they became united as a band of brothers, to meet the common danger. They repulsed their enemies and preserved their independence. How does that example sustain the deductions of the member from St. Landry, (Mr. Lewis) that popular governments are incompatible with public virtue, and cannot exist.

The principal error in the arguments of those that attempt to prove from history the impossibility of popular governments, is, that they do not sufficiently distinguish the

principle from the action of those governments. It is incontestible that the authority of government takes its source from the will of those upon whom it is to operate, whether we consider the action of the legislative, the executive, or the judiciary; and that beyond the source of power itself, are the means of exercising it; but the means are not at present under discussion. The question is, who shall determine the action and sphere of political power? I do not hesitate to say that it should be the majority. I may be told that this would be placing personal rights above the rights of property. I admit it. I do not think that property can be alone the connecting link of society. Important as it is, it is nothing more than an accessary; and it will not be difficult for me to show that the arguments that have been adduced in its favor are as erroneous as those based upon the popular revolutions in England and in France. It is true that the enlightened Madison hesitated in making persons the basis of government instead of property, but it is equally true that he was influenced by the fear that from the great increase of population the popular action, if not checked, would be dangerous to our institutions. Experience has shown us that these apprehensions were illusory, and the examples which the delegate from St. Landry, (Mr. Lewis) draws from history, do not sustain the reverse of the proposition.

The history of Rome presents no example of a popular outbreak against property. There never was a contest between the rich and the poor, unless we designate as such the commotions raised by the plebians for bread. If we examine attentively the history of that republic, we find that there was but one species of contest; the contest between the oppressed and the oppressors. This was the natural consequence of the peculiar and unjust system which prevailed in the polity of the Roman people. Their community was divided into two classes, with unequal power—the plebians, that were ten times more considerable than the patricians, had but one-sixth of the political power; and in addition to this, the expression of the public will was limited to the seven hills of the city, which dictated laws to the provinces. Can any reasonable parallel be drawn between the system of government at Rome—a splendid aristocracy—and the democratic institutions of the United States? It is not to the principle of property that we are to attribute the force and strength of our government, but it is to the principle of association, and the love of personal liberty that binds us together.

It seems to me, that instead of consulting the several constitutions of our sister States to show that property would be unsafe, if it were not made an element of the government, and that those who possessed no property would be dangerous legislators, it would have been more appropriate to have referred to our own experience to sustain the contrary doctrine. Property has governed in Louisiana exclusively, and what has been the result? What disposition has been made of the public property? and what forbearance has been shown in the collection of revenue? We find that the State has been involved to an immense amount, and impoverished in her resources, and by what legislation was this done? Was it by the poor or by the rich: by a representation based upon property, or a representation based upon persons. Who created those wild and visionary speculations that have emptied the public treasury and violated the public faith? Was it to succor the poor that the Union Bank and the Citizens' Bank were created, or was it to accommodate the rich, the property holders, whose interests were especially represented in your legislature. For whose benefit were large appropriations made to the Nashville railroad company, to foster the spirit of speculation? By whom were your legislatures besieged for charters of banking corporations and visionary schemes of internal improvement? Certainly not by the poor. Your representation has been based upon property, and what has been the result? Has property protected itself, or has it protected the interests of the laboring classes? A retrospection of the past will show that it has not. The argument that property would be endangered if representation be based upon persons, is without force. We have had experience of what a property basis is. We have seen the extravagances and follies that have attended it. Extravagances and follies which would have been still more serious in their consequences, had it not been for the firmness and judgment of a citizen, whose official station

enabled him to arrest their onward march, and to save some millions of dollars from the yawning abyss of bankruptcy. Why then prefer property to persons? Property will always have its full share of weight; I would not exclude its proper influence, but I would not sacrifice the interests of persons to property; that is to say, I would not render persons inferior to property, by giving to the latter a preponderance.

In vain will it be assumed that taxation is the first object of government; that to those only that pay taxes belongs the government. Either this argument has weight, or it has no weight. In the first hypothesis the argument is closed. In reference to second, I will remark that it is not only those that own the property that pay the taxes, but, also, the consumer of the product of the property—the laboring man who purchases. The man who serves six days in the militia during the year, contributes his time, not only for the protection of the State, but for the protection of this very property; and he, also, is entitled to a voice in the administration of public affairs.

An allusion has been made to the assumed injustice of requiring two years' residence in the State. It has been qualified as aristocratical, and as establishing an unjust preference. I cannot take that view of the subject. If our elections are to be held biennially as has been proposed, what great hardship can result? To secure the attachment and fidelity of new comers, some period should be fixed upon as a test. Is two years too long for that purpose? It has been said and truly said that the State is peculiarly situated. Her institutions require a guarantee from those that are to participate in wielding her destinies. Some time must elapse before strangers can become assimilated in sentiment and feeling with the old population. I do not think it would be wise to dispense with so necessary a requisite as that of residence, and I cannot think the period is disproportionate to the necessity. Persons are arriving among us in great numbers from Europe and from the Northern States—those from Europe, it is to be presumed, are more or less imbued with the prejudices and feelings of a political order of things entirely different from our system of government; and among those from the Northern States are some that are tinctured with doctrines not in unison with our domestic tranquility. To allow all these, at once, to approach the ballot box would surely be impolitic. It would be endangering our institutions, and unwisely exposing ourselves to foreign influence and domestic corruption.

Mr. Splane said that it was due to him self and to the parish he had the honor of representing, (the parish of St. Mary,) to explain the position in which his constituents and himself stood upon this subject. Before his election, he had distinctly stated his views upon the several questions which would in all probability come before the Convention, and upon this point explicitly, to remove restrictions upon suffrage, and to impose none. He would read from his printed address to the people of the parish of St. Mary.

(Mr. Splane here read an extract from the paper above referred to.)

Mr. Splane said that consequently he should vote for the motion of the delegate from Ouachita, (Mr. Downs,) to strike out, with the view of filling the blank with one year. This was in accordance with the wishes of his constituents. He did not pretend to know what were the wishes of other constituents. He spoke only of his own.

Mr. Burton offered a substitute for the section, requiring that the voter should be twenty-one years of age, a free white male, and that he shall have resided one year in the State.

Mr. Preston: that is in precise accordance with the old Constitution, striking out the property qualification.

Mr. Benjamin raised the question of order upon the receipt of the substitute.

Mr. Downs considered the substitute to be in order.

Mr. Claiborne participated in the opinion of his colleague, (Mr. Benjamin,) that it was out of order.

Mr. Grymes: questions of order should be decided without debate.

The President decided that the substitute was in order.

Mr. Guion would inquire of the chair if the substitute were adopted, whether it would be subject to amendment.

The President: No sir.

Mr. Benjamin, thought that this decision was erroneous and would lead to confusion.

Mr. KENNER inquired of the chair, whether the motion for the previous question, if it prevailed, would cut off the substitute.

The PRESIDENT: The motion for the previous question if it prevailed would bring up the question to strike out.

Mr. O'BRYAN thought the previous question would be on the adoption of the section.

Mr. CHINN: the decision of the chair would throw the house upon the original report.

Mr. KENNER's motion for the previous question was put and carried---ayes 42 nays 24.

The question was then taken to strike out the following words : "and has resided two years in the State and one year in the parish in which he offers to vote."

The ayes and nays were called for and were ordered, and the result was as follows:

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard McRae, Mayo, O'Bryan, Peets, Porter, Preston, Read, Sellers, Splane, Waddill and Wederstrandt—23 ayes.

Messrs. Beatty, Benjamin, Boudousquié, Bourg, Briant, Brumfield, Carriere, Cenas, Chinn, Claiborne Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marginy, Mazureau, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Ratliff, Roman, Roselius, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Wikoff, Winchester and Winder—44 nays.

The question then recurred on the adoption of the section.

Mr. KENNER proposed the following proviso :

"Provided that no person of unsound mind, or one who has been convicted of felony, or any crime, shall enjoy the privilege of suffrage, and provided further that no elector shall vote out of the parish in which he resides, or if it be in the city of New Orleans out of the ward in which he may reside."

This proviso gave rise to a desultory discussion.

And on motion, the Convention adjourned without coming to a decision.

FRIDAY, January 31, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer from the Rev. Mr. Reilly.

The CHAIR announced that the call for the previous question yesterday, on the 8th section, cut off all amendments. The previous question was properly on the original report, but we had through inadvertance taken the question upon the motion to strike out.

Mr. LEWIS: the question has been taken and decided, and it is too late now to interfere with that decision.

Mr. DOWNS: the decision of the chair, this morning, corresponds with what was stated by the member from West Baton Rouge, (Mr. Chinn,) that the previous question was properly upon the original report.

Mr. SELLERS had voted in the affirmative upon the motion to strike out, under the belief that the section was open to amendment. He had been so informed by the president. He would now ask to change his vote.

Leave was granted, and Mr. Sellers' name was recorded in the negative.

ORDER OF THE DAY.—Section eight, article second.

Mr. KENNER offered his proviso excluding from suffrage persons of unsound mind, and persons guilty of criminal offences; and requiring further, that each voter should vote in the parish in which he resided; and in cities, in the ward in which the voter resided.

The President decided the foregoing to be out of order.

Mr. ROMAN offered the following additional section:

SEC. 10th. "It shall be the duty of the general assembly to provide by law for the registration, at least three months before every general election, of all the qualified voters of the State, in the several parishes in which they actually reside. No person shall be entitled to vote except in the parish of his residence, and if the parish is divided into election precincts or wards, in the election precinct or ward where he resides, and except his name shall have been recorded in the last registry made previous to the election."

Mr. ROMAN said that the Convention had sanctioned the principle of universal suffrage. Each one would have to accom-

modate himself to that principle; but it was all important not to lose sight of the difficulties that would beset the judges of election, in distinguishing as to those who really possessed the qualifications still required. Fraud was more facile of practice in Louisiana, than in any other State of the Union, on account of the crowds of persons that came from the other States, and more particularly from Europe. To convince one of the motley character of that population, it was only necessary to go in the morning to the market; there was a confusion of tongues there, equal to that of the Tower of Babel. It is necessary to make some law to prevent frauds, which, all agree, exist to an alarming extent, and I believe the foregoing proposition is of a character to effect that purpose.

Mr. Dunn said that this proposition was one that ought to be considered with some reflection. He therefore moved that it be printed.

Which motion prevailed, and the section was made the order of the day for Wednesday next.

Mr. Claiborne presented the following section:

Sec. 9th. "In all cases when persons offering to vote shall be naturalized citizens, the residence of two years in the State, required by the preceding section, shall commence from or after the date of their naturalization."

On motion of Mr. Guion, the foregoing section was ordered to be printed, and made the order of the day for Wednesday next.

Mr. Miles Taylor presented the following additional section which was also ordered to be printed:

Sec. "Absence from the State shall interrupt the residence required in the preceding section, unless the person absenting himself shall be a housekeeper, and his dwelling house shall be actually and exclusively occupied during his absence, by his family, or some portion thereof."

Mr. Benjamin stated the fourth section of the second article, had not been adopted, nor rejected—the motion to adopt that section, as amended, having failed by the casting vote of the president, it was not adopted.

On motion of Mr. Scott, of Baton Rouge, said section was laid on the table, subject to call.

And Mr. Claiborne moved to amend the foregoing by the following order, "and that it remains on the table until the question of suffrage be decided," which motion prevailed.

Mr. Scott, of Feliciana, moved that the seventh section of the second article, which is as follows, be taken up:

"The house of representatives shall elect its speaker and other officers."

Said section was adopted.

Mr. Lewis moved that the Convention take up the sixth section, which motion prevailed.

Sec. 6. "Representation shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation, adopted in the constitution of the United States. The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

	Members.
The parish of Plaquemines shall have one member,	1
The parish of St Bernard,	1
" Orleans—	
First Municipality, 5	
Second do 4	12
Third do 3	
That part of the parish of Orleans on the east bank of the river Mississipi,	1
The parish of Jefferson,	2
" St. Charles,	1
" St. John Baptist,	1
" St. James,	2
" Ascension,	1
" Assumption,	2
" Lafourche Interior,	3
" Terrebonne,	1
" Iberville,	1
" West Baton Rouge,	1
" East do	2
" West Feliciana,	2
" East do	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Pointe Coupeè,	1
" Concordia,	1
" Tensas,	1
" Madison,	1

"	Carroll,	1
"	Franklin,	1
"	St. Mary,	1
"	St. Martin,	2
"	Lafayette,	1
"	Vermilion,	1
"	St. Landry,	4
"	Calcassieu,	1
"	Avoyelles,	2
"	Rapides,	2
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
Total,		72

As soon as may be after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter the number of representatives shall be fixed and apportioned, according to the principles of this section, so as not to be less than seventy nor more than one hundred, and whenever a new parish shall be created, a separate representative shall at the same time be provided for it, which shall continue until the next decimal apportionment."

Mr. MARIGNY said that this section was the most important section that had as yet been under consideration. As a member of the committee-I disaprove of the report just read, of the majority of the committee, and also disagree with the counter report. I ask that the section be rejected, and shall proceed to state on what grounds I base this demand.

This section is neither in harmony with the federal constitution, nor with our local institutions. Still less is it in accordance with the popular will, whether we take for its exponents the whig party or the democratic party. It would be better that each member should abandon this body than to pass such a section. "Representation," says the section, "shall be equal and uniform." In this case representation should undoubtedly be in the ratio of population, and according to the federal basis, which does not admit the right of property in its apportionment; a representation is allowed to each fraction of fifty thousand citizens, and accordingly it would have to be conceded here that the number of electors should determine the number of representatives; and I would be curious to hear what certain orators would say that wish to throw aside property and take persons exclusively.

But it would appear that this is not the reasoning which the authors of the section attach to the words, equality and uniformity; for they say immediately afterwards "each parish shall have the right to one representative at least." How one member to each parish? Why the fourth district, where as many new parishes have been created as possible, has already twenty eight representatives in the lower house, and if you add to these twenty eight representatives, those of four or five adjoining parishes that have a similarity of interest, the amount will be augmented to thirty two or thirty three representatives, which will constitute within three, one half of the whole house. Is not this a most singular mode of securing equality and uniformity. Parishes that contain scarcely two hundred electors, are each to have one representative, and if they unite by a common interest, they will embrace in all time the majority of the house. How can you explain this inconsistency, unless you admit that you attach greater value to property than to persons?

To argue upon this question cannot avail you, for I have before me the calculations that you have made, and the figures that you have placed opposite to the same, of each parish. You say that Caddo shall have one representative, Bossier one representative, and so on with several others, that it is needless to enumerate, but to whom you give equal weight with the parish of Plaquemines. And yet, what a striking difference between her geographical limits and the parishes of the West, which you favor so liberally. She has ninety miles in length, and in breadth she has, first, a peninsula of 60 miles square, between Lake Borgne, the Gulf, and the River; and, secondly, immense prairies which have been supposed inhabitable, but which, from the employment of steam to machinery for the purpose of draining, promise to be progressively brought into cultivation; thirdly, numerous bayous, and, finally, growing vil-

lages, such as Pointe à la Hache and the Balize. And to this parish you accord but a *single* representative, and you pretend that such a concession is in conformity with *equality* and *uniformity?* In my opinion I pronounce it to be a mockery; a violation of all justice.

Again; if the evil were confined to the present, it would not be so oppressive.—But the injustice does not stop here, for the section goes on to say, "that whenever a new parish shall be created she shall be entitled to one representative."

This clause, it cannot be denied, is altogether in favor of the Fourth District. Elsewhere in the State there is a decided repugnance to dividing old parishes to create new ones, but in the Fourth District there is but one dominant and predominating idea, and that is, to divide and subdivide. In addition to all this, calculations are made already upon the land not yet sold, on the Atchafalaya, out of which will be carved some fifty or sixty parishes! When that takes place, the Fourth District will have a majority in the Legislature; will vote at will all the appropriations; distribute as she pleases, the seven or ten millions of revenue, which the immense riches of the State will pour into the treasury. In the time of peace, as in the horrors of war, this favored district will regulate the destinies of the State—having the possession of the public purse—and the balance of the State will be mere servants, or adversaries, to be laughed at! This cannot be. Never will such a montrosity be consummated! The majority of our citizens would be like the executive power in France, in Spain, and in England, subjected to the caprices of a legislative majority, that the body of the State had not contributed. I repudiate with indignation such a design. If the Convention untowardly gave it their countenance, I would refuse to sign the constitution containing it, out of respect for the people who disapprove it. But the Convention will, I hope, do its duty; and the only response it will give to the long and excited debates, which will be indulged in, to prove that what is most unjust is founded in justice, will be a profound silence, and the rejection, prompt and absolute, of the section, the three first lines only excepted. This is the motion, Mr. President, which I submit; and which I hope will at once prevail, so heartily anxious am I that the last traces of such a piece of machination shall disappear.

Mr. Benjamin suggested that, in fact, the section was conceived in such a manner as not to be in a proper form for the action of the Convention. He, therefore, moved that it be referred to a special committee of twelve; three to be chosen from each of the congressional districts.

Mr. C. M. Conrad trusted that the Convention, before taking farther action upon the subject, would reject at once the principle, according one representative to each parish. It might answer very well the views of certain persons, to create new parishes, for the purpose of getting the parochial offices, consequent upon those creations, but he doubted much whether the Convention would establish, by their action, the carving out of new parishes, tending to destroy the principle of uniformity and equality, and to establish among us the rotton borough system of England. If this objectionable principle were rejected, which was, in fact, in contradiction with the three first lines of the section, "that representation should be equal and uniform," the committee, to whom his colleague (Mr. Benjamin) proposed to refer the subject, would be enabled to determine upon the proper basis, and that once determined, it would be a matter of mere arithmetic to make the apportionment.

Mr. Boudousque moved that the section be at once rejected, for the minority of the committee were restricted to protesting against the course of proceeding of the majority, and the only hope they had was to appeal to the justice of the Convention, when the section should come up.

Mr. Downs: I was so far from anticipating the attacks, which the report of the committee has encountered, upon the subject of apportionment, that I am unprepared to repel them. One honorable member (Mr. Marigny) rises from his seat and threatens the Convention that he will not sign the new Constitution if the Convention dare adopt this section. This section, cries another member, (Mr. Benjamin) in a tone no less indicative of excitement, is repugnant to justice, and in direct conflict with the principles of equality and justice. The whole section, exclaims a third member, (Mr. C. M. Conrad) is in direct conflict with the three first lines, which declare,

as a basis, "that representation shall be equal and uniform"; and all three unite in vociferating, reject this section at once and send the subject to another committee, which will be more equitably composed than the first. If this be the way in which the business of the Convention is to be conducted; if it be imagined that by violence and force of recrimination, certain designs are to be attained; then, I will say, that those that employ this method will find themselves wofully mistaken. Differences of opinion should be left open to accommodation, and not to wilful and unfounded accusations. On whose motion was this very committee, which is now found to be so very objectionable, formed? It was formed on the motion of one of the very gentlemen (Mr. Benjamin) that denounces it at present with so much acrimony. It was framed, too, at a time when excitement and violence were unknown. But, because the committee, composed of delegates from each senatorial district, have not reported in accordance with the peculiar views of certain gentlemen, it is said that the report is glaringly unjust; that it is culpably wrong; and that the first committee must be dismissed with anathemas, and a second one, more equitably composed, chosen to investigate the same matter *de novo*. Unless it be designed beforehand to dictate to the new committee the very report which they shall make, what report can they make to satisfy those that object so strenuously to the action of the first committee? It may very well happen that the first report is not perfect, but I protest against the imputation that the majority of the committee were actuated by the design of advancing sectional interests, and giving a preponderance to any section to which it was not clearly and indubitably entitled—if such preponderence really exists, which is asserted with so much vehemence of declamation. There is nothing in the principle which is so novel or startling. The basis that has been adopted was the favorite basis of the Southern States, and was the one incorporated, at their express desire, into the federal constitution. The principle that each parish should have one representative is neither new nor extraordinary. The Constitution of the United States gives to the smaller States an equal voice with the larger, in the Senate of the United States. And, as to the particular objections urged against the basis of representation, I repeat again, it is the very basis that the slave-holding States have considered vital to their very existence. If you denounce that basis, you may maintain the doctrines of Massachusetts and those States that are inimical to Southern institutions. For the sake of consistency, how can you argue that the basis of representation in the federal constitution is proper and just, while you denounce the very same principle as tyrannical and oppressive in our own constitution?

When the question was recently under discussion, said Mr. Downs, upon the right of suffrage, and the superiority was assumed for property, while I resisted that doctrine, I admitted that property ought to have the weight that legitimately belonged to it. Slaves are the greatest sources of revenue in the State. They are identified with a very important local interest that should have its weight in the administration of our political affairs.

The gentleman from St. John the Baptist (Mr. Boudousquie) complains vehemently that each parish should have a representative, because some of the parishes of the State are small and insignificant. Now, it so happens that the very parish that delegates that gentleman, and the adjoining parish of St. Charles, are among the very smallest parishes of the State. If the gentleman's rule were to prevail, to cut off the smaller parishes from representation, both these parishes would be denied a separate voice in the Legislature. An examination of the question, free from bitterness and excitement, will demonstrate that there is nothing so unjust, so odious, in allowing each parish to have a representative. If, as in some of the republics of antiquity, the people assembled immediately and disposed of all great questions, there would be no necessity for assigning to each distinct local political community a representation. But, inasmuch as the republican principle of representation, which was unknown to the republics of ancient times, and which is certainly a very great improvement, exists; and which enables a very large extent of country to live under one general government for general purposes, and a local government for local purposes; the necessity of bringing together the whole people to con-

sult, is dispensed with; and they have the facility to entrust their interests to a few persons to be adequately represented. To carry out the principle in its purity, however, it is necessary that every portion of the community should have a representative to represent their general, as well as their local wishes. Each fractional portion having a separate territorial interest, should be represented in the general assembly of the whole community. Because the population be relatively small is no reason why it should be deprived of a voice whenever its independent territorial existence has been established and is continued. Its population may increase, but if its population did not increase and if it were to remain stationary, how are its vested rights to be protected and its wants and wishes be made known? By allowing it to participate with another parish in electing a representative? To this I would observe that the interests of even contiguous parishes are not invariably identical. The parish that had the greater population would govern the one that had the smaller population. The person elected would have his local attachments and personal interests with the mass of the population, by whom he would be chosen. Besides, the coalesced parish might be at some distance, and the representative might not visit it, either on account of its remoteness, or because it was difficult of access, on account of the bayous and marshes that separated its territory.

I have had, (continued Mr. Downs,) during my own personal experience, some acquaintance with the spirit that has actuated our legislation. Those only have had the real preponderance in the legislature among whom there was a perfect unity of sentiment, and as this unity of sentiment was on many occasions extremely difficult among the representatives of the country parishes, even when party spirit was temporarily lulled, it has so happened that the ten or eleven representatives from the city have paralyzed the action of all others, save themselves, and have invariably carried the object at which they aimed. This result is not difficult of solution. Wherever there are large aggregates of persons interested in any design, their objects are likely to succeed, even to the detriment of other interests, unless some efficatious means be devised to preclude the weight of their concentrated, and because concentrated, more powerful action. I contend that nothing so effectual, to preserve the due weight of the country, can be adopted, as so to distribute the representation, that each separate parish shall have a separate representative.

As I have said before, the plan suggested by the majority of the Convention, is not deemed perfect. It may have, and doubtless has, its defects. But, let those who so vehemently opposed it, suggest a better one. If it be intended to take all for granted which is to be urged against this report, and by endeavoring to raise an excitement against a particular section of the State, to divide the country for the benefit of the city, I tell gentlemen to beware lest they overreach their mark. Their burning eloquence and loud denunciations may lead to a result which they will sincerely regret. The city of New Orleans may suffer the rebound, and it will then be seen who will gain the most—those that have sought to rend all in pieces, or those that desired to pursue a course of exact justice to every portion of the State.

We are here, said Mr. Downs, to deliberate with calmness; to asperse the motives of no one, and to avoid stirring up angry dissensions and contentious feelings. To consult and to deliberate, and where we can, to compromise. The report of the committee is before the Convention. Let them amend it, if it be faulty. But, as I do not think that any committee can be appointed to make a report that will be satisfactory to all parties upon this subject, I oppose the recommittal. I consider, moreover, that the motion to refer, and in some measure the remarks that have been made, upon the report, is an attempt to cast censure upon the committee—censure which is altogether undeserved and without the slightest foundation.

Mr. Benjamin said, that the present was not altogether a fitting occasion to enter into the merits of the report of the majority of the committee. I will take another opportunity to reply to the delegate from Ouachita, (Mr. Downs) and will prove that the grounds he has assumed in defence of the section are unfounded. Some observations, however, have fallen from that gentleman that necessitate a reply. In the

first place, he is under a misapprehension, if he thinks that in denouncing this report I had the slightest intention of impugning his motives, or those of the other members of the committee that concurred in it. I impugn no man's motives. I only complained that the operation of the section if it were adopted, would be unjust and unequal, and this I am ready to show. One of two things, either the report is conformable to justice, or it is not, If it be just in its disposition of the representation of the State, then it ought at once to be sanctioned. If it be unjust and partial, as I hold it to be, then it ought to be fully discussed, and its defects laid open to inspection. Discussion ought not surely to be considered as a criticism, or a censure of the motives of its authors. I disclaim any such design. I have not the slightest doubt that it appeared exceedingly just to the delegate (Mr. Downs) that the fourth district, in which he resides, should have one half of the representation to the legislature, for its proper share. I, however, entertain quite a different opinion.

Mr. Downs: I did not say that the fourth district should have one half of the representation, nor does the section provide such a representation.

Mr. Benjamin: The difference is but a small matter; it may vary my statement two or three votes, but to be precise, I will say one half of the representation within two or three votes!

I have been accused by the honorable delegate, (Mr. Downs) of being the mover of this committee, and therefore, he thinks, I should be precluded from objecting to the report upon any point. It is true that I moved for the formation of the committee, but I did not certainly constitute it. For it happens that as three-fifths of the committee are radicals, that part of the State which is deemed most radical, has received the lion's share. Perhaps, this remark may be construed into something personal! I am convinced that nothing can be done until some definite and equitable basis be adopted, and for that purpose I have proposed that the report be re-committed to another committee, which will better represent the various sections of the State, and which will propose a less exceptionable apportionment than the present one in its details.

We have been exhorted, said Mr. Benjamin, to give to this question our serious consideration. We are too much interested in it not to do so, without the necessity of an exhortation. A disposition has been exhibited to revive the old story about the influence of the city, and to get up a petty jealousy between the country and the city. The tocsin of alarm has been rung, and the order has gone forth that the voice of the city must be stifled. There are elements of discord enough without attempting to arouse local jealousies and sectional feelings. Certainly no desire is felt by the delegation from the city, to deprive any portion of the country of its just weight. The best policy for all to pursue is a just and equitable course, for no temporary advantage can be a permanent gain. As for political considerations, they may well be regarded as out of the question, for no man can tell what will be the political situation of parties two years hence; nay, not six months hence.

Some mysterious threats have been made by the gentleman from Ouachita. I am no delphic oracle to interpret the gentleman's meaning. Some allusions to blows to be struck. . . . . .

Mr. Downs: I do not mean a conflict of arms.

Mr. Benjamin: I understood the gentleman; he made mysterious threats of what might occur, if the report were referred to another committee. If the gentleman would explain the danger, I might, perhaps, to avoid some terrible and impending evil, consent to vote according to his wishes. But, we are not children to be frightened by any bugbear that his excited fancy may set before us. I know of no worse evil than the adoption of this report, and I shall vote to refer it.

Mr. Dunn hoped that this motion would not prevail. He trusted that the report would be taken up and concurred in. If there were errors in it, they were subject to correction. He thought that the basis was a just one, and peculiarly adapted to the local position of the State. With due deference, he trusted, that the house would take up the report and act upon it, section by section.

Mr. C. M. Conrad moved to strike out all of the section with the exception of the two first lines, announcing the principle

that representation should be equal and uniform. He considered the balance of the section as in positive contradiction with the foregoing declaration.

Mr. Roselius said he would support the motion to refer the report to another committee. His colleague, (Mr. Benjamin,) who had made that motion, had supported it so forcibly as to make it necessary for him to say, on the present occasion, but little. The question would come up hereafter more properly for discussion. The present committee have fixed no basis—they have established no principle for the "equality and uniformity of representation;" and unless a basis be proposed, how can we proceed properly to the adoption of the section. The present question, we are told is an important question. It is not only important in reference to the subject to which it relates, but it is important in relation to the divergent opinions to which it has given rise. And hence it is desirable that something precise and definite should be presented for our action. Does the report of the committee place us in possession of any thing precise and definie? It is true that the principle of uniformity and equality are enunciated. But are these fundamental principles carried out? I say they are not carried out, but are violated in the details of the section. The apportionment made is arbitrarily without any basis, either of federal numbers of the electors or of the population, and to each and every parish is assigned one representative. Upon what principle of apportionment is this representation assigned? If a parish have but twenty voters it is still to have one representative, and an equal voice with one having five hundred or one thousand voters! Is this the principle of equality and uniformity?

There are, said Mr. Roselius, three modes of fixing the representation of the State. The first is the basis adopted in the existing Constitution—that of the qualified electors; the second is the basis of population, and the third is a mixed basis of property and population. The principal of either basis are fixed and immutable. Not subject to legislative control, nor to the passions and excitements of the moment. Choose which you please, establish a fixed and immutable principle, but do not involve yourselves by an arbitrary rule into a labarinth, from which there is no escape. Do not establish a rule that will fluctuate with the will of the legislature, and which will be subject to the interested action of political parties—to be modified and to be changed as may best suit the views of that party, which may happen temporarily to be in the ascendant, and which they may employ to perpetuate that ascendency.

But I may be told that the report establishes a basis in accordance with the constitution of the United States. Not to be mistaken, I will refer again to the report. It says:—"Representation shall be equal and uniform." That is very well, but it proceeds in direct contradiction, "*each parish shall have at least one representative*, and beyond that, *if entitled to any more*, in proportion to the population of each, ascertained and calculated according to the principle of representation fixed in the constitution of the United States. The first representation under this constitution shall continue [arbitrarily!] until after the next United States census, in 1850, and shall be as follows." Here follows the enumeration. Is it not clear that the federal principle of representation is only called into operation after the year 1850, and only when a parish shall be entitled by its population *to more than one representative*. But the principle of federal representation, partical and sectional, as it is in its operation towards a particular portion of the State, is silent in reference to the allotment of our representation. The small parishes in the northwest, that have been carved out with a rapidity and earnestness which surprised me, at the time, but which is now perfectly comprehensible, are to have one representative in any event, even although under this very federal basis, they would have no right to claim a representation distinct and separate. The federal principle is to operate only to their advantage. When they invoke it, it will be because they are entitled to *more than one representative*, but in the meanwhile they are to have the preponderance and are to wield and control the legislation of the State. I would ask, Mr. President, if such an arbitrary allotment of the political power of the State, is not a flagrant injustice, a wilful and positive wrong? Can it be said to be made upon any fixed basis? I repudiate the idea that there is any thing like a basis, or that

is founded upon the principles of equality, "*Representation shall be equal and uniform.*" Indeed! Is this equality and uniformity? That the political power should be wielded by a minority. For taking the federal basis which admits the enumeration of three-fifths of the slave population, a greater number of representatives are allowed to the minority than they are entitled to. I shall, on another occasion, refer to the injustice of taking the federal basis in this State, for the apportionment of representation.

In reference to certain expressions, that have fallen during this debate, I shall not say any thing. They were no doubt suggested during the heat of debate, and signify nothing. I impugn the motives of no member on this floor. I believe all are actua. ted by good motives, whatever diversity of opinion may exist. I do not consider a reference to motives a proper theme for animadversion. We have nothing to do with motives. The acts of the majority of the committee are before us in this report. Shall we sanction that report? I think it ought not to be sanctioned, because it makes an unequal and partial disposition of the subject. Hence it is I think it should be referred, and inasmuch as the able delegate from Ouachita, (Mr. Downs,) and his intelligent colleagues upon the committee, have not been able to determine upon a just basis of equal apportionment, the necessity of re-committing the question, appears to me to be the more apparent.

Mr. Chinn said he would, if the motion to refer prevailed, move that the committee be instructed to report a basis in accordance with the federal basis.

Mr. Grymes said it was immaterial to him how the question at issue was reached. But if it is to be referred, it seemed to him but fair that the committee to be raised should be placed in possession of some instructions indicating the sense of the house. With that design, without trespassing too far upon the indulgence of the house, he would give his views upon the report as it stood.

And, in the first place, the majority of the committee, it appeared, had decided in favor of federal numbers, as the basis of representation. God forbid, said Mr, G., that, in the remarks which I shall make, I should wound the sensibilities of persons too ready to take offence, or give umbrage to those whose zeal prompts them overmuch to desire success to their own particular system.

Property, in my opinion, should be the basis of representation; but next to property I would take the qualified voters. If neither of these are to be the basis, then I am in favor of a basis founded on an enumeration of the free white population of the State. As to the federal basis adopted by the committee, I consider it arbitrary in its character, and calculated, if established, to keep up dissensions and excitement in our community. It is well known that the federal basis was a departure from principle, insisted on by the southern States as a guarantee, and consented to by the northern States, only as a compromise, without which the union of the States was impossible. Its design was to preserve the balance of power and protect the southern States from encroachments on the part of the northern States, to which the augmentation of population from local causes, would otherwise have given an ascendancy. That was the motive for establishing the federal basis.

But, can it be pretended that our local situation as the inhabitants of the State in relation to each other, makes it necessary that we should take such a basis? How can there be any difference requiring it, when all our population indifferently are the proprietors of slaves? The delegate from Ouachita may reply to this, that if we refuse this basis, then we repudiate one of our own vital and essential institutions. This response is not well founded; it is not analogous to the precise situation of things. In a State where all are submitted to the same laws, enjoy the same franchises, hold the same description of property, it is idle to adopt an arbitrary system of apportionment that is not only repugnant to our social position, but manifestly unjust. The federal basis, it must be conceded, is proper in reference to the Union, but what propriety, what necessity exists for the adoption of that basis in the State of Louisiana? I go further and assert, that so far from their being any propriety or necessity for its adoption, that its inscrutable tendency would be to expose that particular institution to the very risk—to guard against which it was insisted upon as essential in our federal compact, and so it was essential in our federal relations. But, that necessity cer-

tainly has no existence in our local relations; not the most remote.

What will be the operation of this basis? Assuming that the number of representatives be fixed at 72, and the number of senators at 32, the 4th district will be entitled to 29 members in the first body and 14 in the second—making a total of 43, which will be only nine less than a majority of the whole assembly. And yet, to this strange and monstrous proposition is given the attribute of "equality and uniformity." I, in vain, seek for the balance of political power in the State. It has no visible existence. In what particular can it then be said that this apportionment is conformable to the immutable principles of justice. No one, assuredly, will assume so difficult a a task as to reconcile it with justice; and yet the glaring inequalities will continue to increase and become more appalling with the progress of time.

The western portion of the State is the richest in agricultural resources; it is fast increasing in slave population; and, as a natural consequence, the great preponderance of that discription of persons will render its white population quite small. There is not a planter that removes there that does not carry with him from fifteen to twenty slaves—that may be taken as the relative proportion; and it may be assumed that the comparative increase of white and slave population is as 1 to 7. Whereas, in lower Louisiana, our slave population is decreasing visibly, especially in the city of New Orleans, where, in a population of one hundred and ten thousand whites, there are but eighteen thousand slaves, making its relative proportion, on the contrary, in the city, in the ratio of 6 whites to 1 slave. From the city of New Orleans to the town of Baton Rouge, the increase of the laboring white population is very great, and this accounts for the decrease in the number of slaves, which are removed to the western portion of the State, and elsewhere, where their labor is more productive. If, for example, you take one of the new parishes of the west, with an area of thirty to fifty miles square; and, to its white population add three-fifths of the slaves, it is certain that one of the river parishes, in lower Louisiana, with a population in the ratio of 2 slaves for 1 white, will have less show in political power than the parish in the west, that has a slave population in the ratio of 15 slaves to 1 white. Can a more arbitrary and unjust system be divised, and how can it be expected that the Convention can sanction such a plan to transfer the political power of the State into hands of a few persons, resident in a particular geographical portion of the State.

In furtherance of the design now openly manifested, a regular and systematic plan of operations has been carried on in this very region, which it is proposed to favor so especially. It is very certain, that if the power to create new parishes is still continued in the legislature, the carving out of territory for that purpose will be stimulated by the principle that each parish shall have one representative, and in this the west will continue to enjoy an exclusive monopoly. The reason is very simple. In the older portions of the State, the lands are not as productive, and the inhabitants of large parishes there, are not disposed to incur heavy expenses by dividing their territory. But, in the west, the lands being rich, the population can be split up into fractional communities, and can bear the burthens of the parochial systems when carried out, *ad infinitum*. Consequently, the superiority of population in the east will be overbalanced by the number of parishes in the west; and political power will reside in a corner of the State which has been split up in a hundred little parishes expressly to attain that preponderance.

The more I examine the subject, (continued Mr. Grymes,) the more am I convinced that the scheme is repugnant, not only to the interests of the city, but to all the other districts, and I may add, to the true interests of the whole State. In the third district, I find that only fifteen representatives and seven senators are allowed by this one-sided apportionment,—a disproportion of within one of one half between the third and fourth Congressional districts, the latter being allowed forty-three members to the legislature. So much for the disproportion between the third and fourth districts, without taking into consideration the difference between the fourth district and the remaining districts.

Independent of these considerations, (said Mr. Grymes,) how are we to ascertain, without statistical information, the

population of the several districts, white and slave,—the amount of taxes paid,—the area of each parish, and the amount of its productive labor. The delegate from Ouachita, (Mr. Downs,) although on another occasion he sustained a contrary doctrine, is in favor that property should be represented and taken into account upon the apportionment. But what kind of property would the gentleman have represented? Slaves, only! And why not other property? If slaves, as property, are to be represented, why not represent houses and lots, and all other property in the city and country? If the proprietor of a slave is to be invested with greater political power by reason of that possession, why should not the proprietor of a house, or the capitalist, partake in the extension of power through representation? Surely, all property should be treated alike, and no invidious distinctions made between one kind of property and another kind of property.

These views (said Mr. Grymes) influence me to indulge the hope, that if the report be recommitted, as suggested by the gentleman, (Mr. Benjamin) it will be with a view of reporting to the consideration of this House, some equitable plan of allotting the representation of the State by fixing some definite and immutable principle as the basis; and likewise, that the committee should place the House in possession of exact and precise data, without which, it is impossible for the House to arrive at any correct and equitable conclusion.

Whereupon, the Convention adjourned.

Saturday, February 1, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings by prayer.

Mr. Downs informed the Convention of the sudden indisposition of the President, by which he was unable to attend the deliberations of this body,

On motion of Mr. Scott of Baton Rouge, Mr. T. W. Chinn took the chair.

Order of the Day.—The Convention resumed the consideration of section sixth, article two, of the report of the majority of the committee on the legislative department, fixing the apportionment of representation.

Mr. Mayo said: the discussion yesterday, Mr. President, forcibly reminded me of a remark made pending the discussion of the adjournment at Jackson last August, during which an honorable member from Feliciana, (Judge Saunders,) stated that he would almost as soon commit his body to the coils of the anaconda as to submit the action of this Convention, to the influences to which its members would be exposed in New Orleans.

I now, sir, feel keenly the force of that remark. On yesterday when this question was presented, four distinguished members from New Orleans, addressed the Convention in support of a commitment of the section, relative to the apportionment of representation, now under consideration, to a committee of three members from each congressional district of the State, and the three last of those members asserted with all the force of their united eloquence, that near half the representation of the State, viz: twenty-nine members to the house of representatives and fourteen senators were, by the report, apportioned to the fourth congressional district; and these statements I find repeated in the Tropic, a city paper this morning, in which the statements appear to be re-asserted, on the very high authority from which they emanated in this hall yesterday, and will thus be promulgated to the country as facts, before the replies can be published in the official papers of the Convention, and are not likely to be fully explained to all the readers of the Tropic, as that paper may or may not publish the remarks that may be made in answer to those statements.

It is not my purpose, sir, to attack any member on this floor, nor to defend any one, but simply to state facts and leave their effect, for the determination of the Convention and of the country.

It was strongly intimated by the speeches yesterday to which I am now replying, that this very partial plan of apportionment,—this flagrant injustice as it was expressly denominated, arose as a consequence of the fact, that the member from Ouachita, which is within that district, was the chairman of that committee, and that from his great zeal for his constituents, a less proportion of representation had been provided for other parts of the State than for that district.

I, sir, was a member of that committee, and represented a portion of the third congressional district.

I confess, sir, that I was shocked and astounded when I heard the assertions of such gross injustice as would have been perpetrated by the committee, at least by that portion of it that concurred in the apportionment of senators and representatives, as reported, if the statements made yesterday were correct.

I, at first, sir, almost distrusted the correctness of the numerous data of apportionment, that I calculated and reviewed before that committee reported,—and sir, as a source of relief to myself having upon my desk the data upon which the apportionment reported was made, I immediately set myself to work, to determine the facts from the statistics in my possession, which I was ready to have presented yesterday, but was unable to get the floor previous to the adjournment. If injustice were done by any report of the committee in which I concurred, I, as a member of the committee, am amenable, together with any other member who concurred in the report, to that charge of injustice, which certainly would result from the statements which were made yesterday as facts. A charge of *injustice*, sir,—of the most *flagrant injustice* committed by the largest committee of this Convention, and composed of one member from each senatorial district! and that charge made and reiterated by four members from this city simultaneously, and accompanied at their close by loud and repeated calls of question, question, question, resounding through the hall, before members opposed to the commitment could have an opportunity of ascertaining the facts; I must be permitted to say carried with it, at least the *appearance* of concert and design. I do not say that such was the fact, or that any *design* existed to carry the measure by storm or by surprise, but that to me it was strongly indicated by the circumstances. I beg of members not to understand me as casting any reflection upon the motives of any one, for such is not my intention.

I heartily accord to every member upon this floor the utmost purity both of motives and intentions. I am dealing with facts only. The honorable member, (Mr. Boudousquié,) from St. Charles, I understood, to state, as a reason for the commitment of the section under discussion, that he should be glad to have this section reported on by a *fair* committee. I do not see that member in his seat to correct me, if I am in an error, which I regret. I can but think, sir, that this is strong language, especially when taken in connexion with that used by the members from New Orleans.

Now, sir, let us see how this question of fairness of the committee stands. By an examination of the statistics which I have in my possession, and which I have no doubt are correct, this fourth congressional district by favoring which such great injustice is said to have been done, was represented in that committee by but four members, which was less than one-fourth of the members of the committee. There are embraced in the district of seventeen parishes, which is more than one-third of the whole number of parishes in the State, and which together at the last presidential election gave eight thousand, six hundred and one votes, being more than one-third of the whole number of votes given at the last election for president, or ever given at any election in the State. I have not had time since yesterday to add together the whole number of white population of the State from the imperfect census of 1840, so as to determine whether it bears the same proportion to the representation, reported for the fourth district, that the proportion of voters bears to it, but from a hasty glance at the census, I am inclined to think that if the white population were made the basis, the result would not be varied materially. From a table which I have prepared since yesterday with considerable care, and which is as correct as any data I have been enabled to obtain has enabled me to make it, it appears that the first and second congressional districts embracing New Orleans and ten other parishes, gave at the last presidential election ten thousand, nine hundred and twenty-one votes. The vote of New Orleans having been greatly increased as appears to be acknowledged on all hands by fraudulent votes; and that twenty-eight representatives are, by the report, given to those two districts.

The first district gave as nearly as I can determine four thousand, two hundred and forty-one votes, and has ten representa-

tives, provided by the report; and the second district gave six thousand, six hundred and eighty votes and has eighteen representatives. The third congressional district has seventeen parishes, gave seven thousand, three hundred and forty-three votes, and has twenty-one representatives. The fourth district, as already stated, has seventeen parishes, gave eight thousand, six hundred and one votes, and has 23 representatives, instead of twenty-nine, and ten senators only, instead of fourteen, as was asserted yesterday. I will now read the statement of facts which I have prepared, and from which I have drawn my conclusions, and if they are incorrect, I desire to be corrected, but I think I am sustained by all the statistics that exist upon the subject.

1st Congressional District.	No. of Representatives provided by the report.	No. of votes given at presidential election of 1844.	
2 and ⅔ parishes.			
1st Municipality,	5	2191	
3d Municipality,	3	734	
St. Bernard,	1	269	No. of votes, 4241
Plaquemines,	1	1047	No. of Reps. 10
	10		

2d District.			
8 and ½ parishes.			The 1st and 2d senatorial district run into the 1st and 2d congressional districts.
2d Municipality,	4	2723	
Right Bank of river,	1	* 91	
Par. of Jefferson,	2	837	
St. Charles,	1	138	
St. John Baptist,	1	255	
St. James,	2	532	No. of votes, 6680
Ascension,	1	503	No. of Reps. 18
Assumption,	2	564	
Lafourche Interior,	3	608	
Terrebonne,	1	429	
	18		

*Supposed.

3d District.			
17 parishes.			
Avoyelles,	2	553	
Catahoula,	1	547	
Carroll,	1	411	
Madison,	1	404	
Concordia,	1	283	
St. Tammany,	1	368	
St. Helena,	1	371	
Livingston,	1	329	No. of votes, 7343
Washington,	1	357	No. of Reps. 21
E. Feliciana,	2	748	No. of Senators, 10
W. Feliciana,	2	551	with a fraction.
Point Coupee,	1	349	
E. Baton Rouge,	2	714	
W. Baton Rouge,	1	313	
Iberville,	1	488	
Franklin,	1	292	
Tensas,	1	265	
	21		

4th District.			
17 parishes.			
St. Mary,	1	494	
St. Martin,	2	788	
St. Landry, and Calcassieu,	4 1	1365	
Lafayette,	1	492	
Rapides,	2	1006	
Natchitoches,	2	1102	
Caddo,	1	365	No. of votes, 8601
Claiborne,	1	571	No. of Reps. 23
Union,	1	419	No. of Senators, 10
Ouachita,	1	306	with a fraction.
Caldwell,	1	263	
Bossier,	1	162	
Sabine,	1	648	
Vermillion,	1	280	
Desoto,	1	202	
Morehouse,	1	138	
	23		

In connexion with this, as unfairness and injustice are also charged, or at least implied, from the statements made yesterday, in relation to that part of the report that relates to the senatorial districts, I will, for the information of the Convention in addition to the fact that no more than ten instead of fourteen senators are given to the fourth district, compare the number of votes given by each senatorial district provided for by the report at the last presidential election, and if the great inequality does exist, it will be apparent from the facts. If not, the reverse will appear from facts. It will be borne in mind that the vote in the city of New Orleans, as appears generally to be conceded, was greatly increased at the last election by fraudulent votes, and that at the presidential election in 1840 there were but a little upwards of three thousand votes in the city, at which time the vote of the city was greatly increased by fraudulent votes. Each senatorial district as reported by the committee, is to send four senators. The first senatorial district is composed of that portion of the parish of Orleans, which lies on the East side of the Mississippi river, and at the last election for president gave five thousand, six hundred and forty-eight votes, or very nearly that number.

The second senatorial district is composed of the parishes of Plaquemines, St. Ber-

nard, the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, which gave two thousand. five hundred and forty-six votes or nearly.

The third senatorial district is composed of the parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne and gave two thousand, six hundred and thirty-six votes.

The fourth senatorial district is composed of the parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupeé and Avoyelles, and gave two thousand, four hundred and seventeen votes.

The fifth senatorial district is composed of the parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, and gave two thousand, seven hundred and twenty-four votes.

The sixth senatorial district is composed of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, and gave three thousand, three hundred and twenty-eight votes.

The seventh senatorial district is composed of the parishes of Rapides, Natchitoches, Caddo, Calcassieu, Claiborne, Sabine, Bossier and Desoto, and gave four thousand, one hundred and ninety-one votes.

The eighth senatorial district is composed of the parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, and gave two thousand, eight hundred and sixty-eight votes. Now, sir, by comparing these districts with the votes at the election which has taken place since the report was made, and taking into consideration the fact that large fractions as well as small ones must always exist in apportioning representation, and that the population in the different portions of the State is constantly changing, increasing in some portions of the State, while it decreases in others, it appears to me that the committee have not only not done injustice, by the proposed apportionment of senators, but that on the contrary it is remarkable, that any combination of parishes has been found in solid form, that results in an apportionment as equal. The vote at the election for governor in 1842 was, I believe, that upon which this apportionment was based, and from which a greater equality will appear on comparing the votes, with the districts, than by taking the vote of 1844 as a basis.

While acting as a member of the committee that reported the section now under consideration, sir, I felt the responsibility that rested upon me as one of its members. I was, sir, then as now fully aware of the importance of the task that we had to perform any, labored incessantly, and with the utmost care, to obtain all the information within my reach, with a view to apportioning the representation upon a fair and just basis, fully appreciating the danger that would arise of a rejection of the Constitution, if the apportionment were unjust or unfair, and believe that the same feelings actuated, most if not all the members of that committee. If any provision will be more likely than another to endanger the approval by the people of the Constitution, if submitted to them for their approval or disapproval, I apprehend that it will be that relative to the apportionment. I am, I acknowledge, at this time favorably disposed to submitting the result of our deliberations to the people for their rejection or approval, though not pledged to do so, if I should on reflection, think such course improper. If any member will at any time point out a fairer and better mode of apportionment than that reported, I will cheerfully yield any preference I may have for any part of it. I did not, sir, in fact fully concur in either portion of the report. There was a great variety of opinions entertained by different members of the committee in relation to it, as appears from the fact, that four minority reports were presented by different members, in one of which I concurred, not because I supposed it perfect, but because I thought it the best that could be agreed upon by any considerable number of the members.

I disapproved of the section reported by the majority, particularly on the ground of forming senatorial districts to elect four senators in each by general ticket. I greatly prefer single districts. By two of the minority reports, it is provided that the apportionment shall be made by the legislature, that shall first convene under the new Constitution,

The section proposed by the honorable member from Assumption, (Mr. Taylor,) apportioning representatives, I thought at the time it was presented, was more per-

fect than any of the others. It is contained in a minority report presented by that member. If there really is injustice done by the report to any portion of the State, it can as well be pointed out and adjusted by the Convention as by another committee. I can see no good reason for such a reference now. I cannot think that a committee composed of three members from each congressional district will be likely to produce that result, unless it be produced by appoointing six members from the city of New Orleans, which the president might do, as New Orleans forms part of two congressional districts. Here Mr. Benjamin interrupted the speaker by stating that no delegates had been chosen to the Convention who resided in that portion of New Orleans, embraced in one of the congressional districts. Mr. Mayo proceeeced: I was not previously aware of the fact stated by the honorable member, and am glad to be corrected by him. It does not appear to me, sir, that the representation either to the house of representatives, or to the senate is likely to be apportioned by any committee that can be appointed, that will be more equal, uniform and just than has been provided by the reports already before the Convention; much less is such an object likely to be effected by a committee to be composed of three members from each of the four congressional districts. It may be best, and justice may require that the distribution and ratio be changed from the plan reported, in some particulars, by taking from some parishes and giving to others. Rapides and Natchitoches would appear to be entitled from the number of votes given at the last election, to another representative each; but this can certainly be as easily done without a reference to another committee as by such reference. As to giving a member to each of the new parishes, it appears to me that sound policy and justice demand it.

The fact that each parish is a distinct, political corporation, having separate and distinct interests, arising from the fact of its political existence, will create a necessity for separate representation from each, and though some two or three of the new parishes may not at this time be entitled by its numbers to a separate representation, yet their population is rapidly increasing.

and will soon entitle each to a separate representative.

I will conclude, sir, by expressing a hope that the Convention will proceed to the consideration of the report without distracting its proceedings by referring the section to any other committee.

Mr. Downs said he felt it to be his duty to make some remarks in reply to what had fallen from the gentleman who had so strenously opposed the report of the majority of the committee upon the subject of apportionment. He had been drawn suddenly into the discussion yesterday, by the peculiar mode of attack, with which the report had been assailed. He could not but express his astonishment at the extraordinary procedure of yesterday. It would appear that there was something more at work than the desire to guard mere peculiar local interests. As soon as the subject of apportionment was accidentally and unexpectedly called up yesterday, five of the ablest members of this body, one after the other, got up and poured a broadside into the report. One gentleman—there were so many that he did not recollect the particular one; and he would have to distinguish them by numbers, from no. 1 to no. 5—he believed this was no. 2, proposed that the report should at once indignantly be rejected—kicked out of the Convention, while another gentleman, no. 1, was for unceremoniously dismissing the original committee, by the appointment of another that will be in his conception more just and less partial in the discharge of the duty to be assigned it. It was very evident that if those gentlemen had their way, the report would have been sent to the bottom of the Mississippi. They would find, distinguished as they were, however, that it would be rather difficult to get rid of the report by the violence of their denunciations. It was very evident that their intentions were to attach a bad name to the report, and get rid of it in that way. They thought by raising the cry of mad dog, they would have a reasonable pretence for keeping up an incessant fire. Their strategy was ingenious, but not novel in legislation. They wished to divert attention from the city of New Orleans, and by enlisting a feeling of jealousy against the unfortunate fourth district, to divide the country, for the benefit of the city.

How, enquired one of the gentlemen, can

justice be expected from a committee composed of a majority of radicals. I do not know what the gentleman meant by the term radical. There are a large majority of democrats on the committee, and this is one of the very few committees in the Convention, upon which there is not a majority of whigs. From the very necessity of the case it had to be so composed, being constituted in the main, of a delegate from each senatorial district, and it was impossible to appoint a majority of whigs, when the large proponderance of senatorial delegates were democrats—but as many whigs as could be appointed were placed upon the committee, and the worthy president of the Convention had in this, as in every other proceeding, exhibited the utmost impartiality. As for the charge of radicalism in the committee, so far from there being a majority of radicals, there are but few radicals upon that committee, and the chairman of the committee, myself, it is well known, is opposed to one of the chief features of radicalism, and in that I differ from many of my political friends—the election of judges by the people. To the majority of the members of the committee, this serious charge of radicalism will be something very novel. As an insinuation has been made about the particular complexion of the committee, I will here state, that out of nine standing committees of the Convention, there are only three upon which there is a majority of democrats, four of the committees contain a majority of whigs, and two upon which there is an equality of whigs and democrats. In looking over the names of the gentlemen that compose them, I find the name of but one member who is at the same time upon two of the most important committees of the Convention—the committee upon the executive department and the committee upon general provisions—Mr. Benjamin.

The intention of the opponents of the report is quite evident. They propose to refer it to another committee, one more impartial. How is that committee to be composed? Of delegates from the four congressional districts. Now, it so happens that the city of New Orleans forms a part, and a controlling part of two districts. The committee is to be constituted of three members from each district, making twelve members, and out of these twelve members the city may have six, or one half. It is not expected that any report will be made by the new committee which will be satisfactory. That is not the design. The object is to get rid of the first report. I strenuously object to this proceeding. If the section reported be imperfect, why not let it take the same course as the balance of the report of the committee. Propose a substitute for it, and take the sense of the house upon the substitute, or amend it so as to make it meet the sense of the house. Assuredly the committee never imagined that their report was perfect. They presented it as the most perfect they could suggest for the action of the house. Two points in it have been the particular objects of attack. The first, that the basis should be in accordance with federal numbers, and the second, that each parish should be entitled to at least one representative. I see nothing in these principles so obnoxious to good policy or sound reason. The report of the majority of the committee adopts the first as the basis of representation, and as for the second, we have a precedent in several States of the union, and in the senate of the United States, where the little State of Delaware has as much might as the great State of New York. Both the report of the minority and the majority agree upon the federal basis of representation. The principal difference in the reports is in this, that the minority recommend that the legislature be entrusted, as heretofore, with the duty of making the appointments. Experience has demonstrated that it would be unwise to leave it to the discretion of the legislature, and hence the majority of the committee recommend the opposite course.

It has been urged, that out of the $500,000, paid into the public treasury for taxes, the city of New Orleans contributes $200,000, and that consequently she is entitled to more weight. This statement is not altogether exact, as will be seen on reference to the treasurer's report. The city contributed, in the year 1842, but $76,780, and the difference between that period and 1844, in the collection of revenue, cannot be essential. In this amount I exclude the tax upon auctioneers and boarding houses, and upon hawkers and pedlers, which I consider in the gross, to be paid by the country. So much for that argument.

To hear the extravagant declamations of

some gentlemen, it would be supposed that the fourth district was overflowing with slave population, and that every acre of land within it was susceptible of cultivation. It is true that there is an average proportion of good land, but there is a great deal that will never bear cultivation. There are pine barrens and swamps. And as to there being an excedant of slave population; the contrary is the fact. The third congressional district would enjoy the greatest advantage from the federal basis, if reference be had to the number of slaves.

The great sensitiveness of the delegation from New Orleans, is explained by the fact, that if they succeed in getting the Convention to adopt the white basis, the city will have the entire and full control of the legislation of the State. If the number of representatives be fixed at 79, the city of New Orleans alone will have the relative proportion of 32, besides the delegation from the adjoining parishes, which may be disposed from identity of interest and from association, to unite with her. Hence the bursts of eloquence that we have heard, and the withering denunciations of the report. It is very natural that the delegation from the city should seek to establish her supremacy; I do not complain of it. But certainly they ought not to expect the country to relinquish and abandon every thing. No member from the country has the slightest wish to interfere with the city, and to take from her any of the just weight, to which she is fairly entitled. In saying thus much, I express my own sentiments, and those of every member from the country, I feel well assured.

But why make the attempt to defeat a proposition which has been maturely considered, and which is presented, not as perfect, but as perfect as the labors of the majority of the committee could make it, by a violent and preconcerted mode of attack, and by getting up the cry of mad dog against it, so that it might be destroyed. I repeat, if there be defects, and that there are defects I will not permit myself to doubt, in the report, why not remove them. As for the principle of representation to each parish, I think it a just and equitable one, but in order to limit the principle, I would have no objection that the legislature be inhibited from creating any new parishes, unless they contained a certain number of inhabitants. The power of abolishing parishes, is clearly within the competency of the legislature, and they availed themselves of that power, by abolishing the parish of Warren; it might, therefore, very well be left to the discretion of the legislature, to abolish any parish where its population did not entitle it to representation.

If the white basis be adopted, it is very clear that a number of parishes, not in the fourth district of the State, will be deprived of representation. Some of these parishes are represented by gentlemen who oppose this report.

[Mr. Downs here read from the census the white and slave population of the parishes of St. Charles, St. John the Baptist, Rapides, the Parish of Orleans, &c., &c.]

The ascendency of the city of New Orleans would be tremendous. It would sweep all before it.

The question of apportionment was naturally an exciting one. It had occasioned a great deal of excitement in the former Convention that formed the present constitution; but the difficulty had arisen there, upon the complexion of the senate. It was declared that accommodation was impossible, and yet the matter was compromised. That is the only way in which it can be settled. Let us then approach with calmness, and use no other weapons but of persuasion and of sound argument.

Mr. Conrad, of New Orleans, said it was not his intention to participate in this debate, but inasmuch as the two gentlemen that last addressed the house, had replied to those of his colleagues, who were not now in their seats, called away by their engagements, or by indisposition, he would beg leave to make a few remarks on their behalf, and at the same time, would state his own particular views upon the subject.

The gentleman that just addressed the house, rose yesterday under some apparent excitement, and in his reply to one of my colleagues, he indulged in some personal asperity. He seemed to think that the fault found with the report, attached to the individual members that made it. This sensitiveness of the chairman of the committee, appeared unnecessary. Certainly not the remotest intention could have been entertained, to reflect, in the slightest manner, upon the motives of any member of that committee.

But the gentleman from Ouachita, (Mr. Downs,) seems to think that there was a preconcerted movement against his report, on the part of the city delegation. For myself, Mr. President, I can assert that I never heard the subject of apportionment mentioned, from the time I left Jackson, until yesterday, when the point was brought under consideration. The gentleman complains that the hue and cry has been raised of mad dog, against the report. That may very well be, as the report assuredly exhibits certain signs of hydrophobia.

The delegate from Catahoula (Mr. Mayo) whose calculations may be very exact, it seems to me has taken a singular mode of illustrating the equity of the apportionment in the report of the committee. He has based his calculation upon electors, whereas the report adopts white population, including three-fifths of slaves. If the basis were electors, then this calculation might apply, but how can it apply to a mixed basis of white population and slaves. If the gentlemen have adopted the federal basis, as their report would indicate, let them stick to it, and argue upon it, but not adopt the principle of federal numbers, and then attempt to sustain it by adducing the number of qualified electors in each district, and parish, to show that there is not a striking disparity in the apportionment they have made.

There are in my opinion two radical defects in the report. The first is, that although the true principle is announced, "that representation shall be free and equal," it contradicts and nullifies that principle by declaring that each parish, no matter what may be its population, shall have one representative. The next objectionable feature is the representation accorded to slaves as a particular kind of property. How should the legislature be constituted? By the representatives of the people—not the representatives of slave property. This is so clear as scarcely to need one word of elucidation. The reason why slaves are admitted into the federal basis are peculiar, and have reference to a state of things that are not analogous to the local position of the State. But why, if you admit slave property to representation, do you refuse to admit other preperty? Slaves in Louisiana are no more than property. And yet a distinction is established between slaves and other property, and slaves are admitted to a representation by the report? The argument based upon the necessity, under which the federal Constitution was framed, has as I have before said, no weight in the present case. The federal Constitution was a part of independent sovereignties, without which no union could have been formed, and which could not have been established at all without that compromise. But, as my colleague, (Mr. Grymes) has justly observed, it was a departure from principle, redered indispenble by the existing institutions of one half of the confederated States, and therefore perfectly justifiable and perfectly expedient.

I certainly do not object to any basis of representation that will operate equally. But the proposition in the report is unequal and partial. It is not equal and uniform, and hence I object to it. If property be adopted as the basis, let all kinds of property enter into that basis; and not a certain kind of property which predominates in a certain portion of the State. But in the fact that there are more slaves in one quarter of the State than there are in the others, do we discover the real reason why slave property is so singularly favored. Its chief recommendation lies in that; and hence it has been selected; for, by no conceivable basis could the fourth district aspire to the ascendancy in political power.

How would it be found if any member were to get up and propose that the sugar planter should have two votes, while the cotton planter be restricted to one, or the reverse? Its injustice would be apparent; and yet a cotton planter in Ouachita or Natchitoches is not only to be represented himself, but three-fifths of his slaves are to be taken into the basis of representation, and he is to have as many additional votes in that ratio, as he has slaves. It is true, that he has but a single vote, but that one vote may be equivalent to the votes of ten, twenty or thirty white men. And why, since you adopt the principle, do you estimate but three-fifths of the slaves property; why do you not say two-fifths or one-half, or the whole number. If the principle be consonant with equality and uniformity, why not carry it out? It is simply because it is an arbitrary principle, and is revolting to a sense of justice.

If the apportionment, giving to each

parish, however small, one representative, was temporary, we might submit to it. But such is not the case. The apportionment, in that respect is irrevocable. It must have, *at least*, one representative, and as many (heaven save the mark!) as it may, hereafter, be entitled to. It is to keep one until it gets more, which is giving it one in perpetuity.

The evil, however, great as it is, does not stop here. The apportionment applies to every new parish that may be created: by the fact of its creation it is to have one representative; thus affording to political parties the means of perpetuating their power, and of carrying into effect any favorite measure they may desire. It has become the practice of the monarchical governments of England and France to recruit their strength in their higher legislative assemblies by the appointment of a batch of new peers. The result of this one representative parish system will be attended by something like the same consequences. Whenever a party needs assistance in the popular branch, they will have nothing to do but to create a batch of new parishes.

The right of representation is a sacred right. It is not to be denied where it is due, nor accorded where it is not due. It is the property of the citizen, and it is in vain to extend suffrage with one hand, if you destroy the value of the gift with the other. My opinions in relation to this particular point are well known. I have fully and freely expressed them; and had my views prevailed, I would have required some guarantee of fidelity and attachment in every case for the exercise of the privilege of suffrage. But this has not been done; and it comes with a peculiar bad grace—with a great deal of inconsistency from those who have declaimed so much in favor of the inestimable right of suffrage, and that it should be extended to every free white male, without any restriction whatever—to propose a basis that admits three-fifths of the slave population to be proportionately equivalent to the white population; and by so much reduces the political power of the individual electors between themselves.

If reference be had to the law under which we have assembled, it will be seen that one of the objects designed was the establishment of a more equal and just system of representation—for certainly the disparity in representation was most striking. This feature of inequality is most visible in the Senate—the parish and city of New Orleans having but one Senator, while the parish of Pointe Coupée has one. It would seem by the report this inequality, with ten-fold force, is to be transferred to the popular branch, and the majority are to be transferred, bound hand and foot, and delivered over to the tender mercies of the minority—the great proprietors of slaves in the north-west corner of the State—who may continue at will the multiplication of new parishes as exigencies may require. They will enjoy, as heretofore, a monopoly of this business, inasmuch as the southern and older portions of the State have divided their territory as far as has been deemed expedient or useful.

It is useless, if not worse, to attempt to arraign sectional or local feelings against the city of New Orleans. The city of New Orleans is not the only portion of the State that will be affected, although, it is true, she will be affected, in the extent of her population and of her electors, to a greater degree. But, it is said that the growth of the city, and the increase of her population, are dangerous to the country; that she will monopolize the political power of the State. That consideration might properly have been urged, and was urged by me, against an improper, and, as I conceived, without restrictions, a dangerous extension of suffrage. Suffrage has been extended, and if the apprehensions of the gentlemen, now, for the first time, avowed, are to be realized, we must seek to avert it without sacrifice of principle. I do not desire to see the city of New Orleans possess an undue influence, and if suffrage were confined to those only who really were interested in her prosperity, and in the stability of the institutions of the State, there would exist no reasonable cause of alarm that she would acquire that preponderance; and, even if she acquired it, in the course of usual events, there would be a positive guarantee that she would not abuse it. But, as I said before, and which I again repeat, cities are not the safest depositories of political power. I would not place the country at the footstool of the city, nor would it be good policy to deprive the city of all influence, and

place her in the attitude of an humble and servile dependant of the country. The balance of power should be carefully adjusted and the rights of both town and country amply protected.

If gentlemen really feel the apprehensions they now express, of danger from the great number of voters in the city, let them retrace their steps, and fix the basis of suffrage so as to decrease the number of electors, without affecting the rights of any who are justly entitled to a vote, and who may be allowed the exercise of that privilege, consistent with the safety of the State. This will be an effectual check against the anticipated danger, and then there will exist no pretext to infringe that golden rule of republican governments—that "representation shall be equal and uniform." No principle will be violated; for the State has an undoubted right to fence in and protect her institutions, and to perpetuate her liberties by a wise and salutary policy in reference to suffrage.

Mr. Dunn said that he had considered with a great deal of attention this question of representation. It was a subject of vital importance. His opinion of the report of the majority of the committee had not been shaken by any thing that had fallen from the several gentlemen that had assailed that report with so much power and vehemence. The design of choosing the white population as the basis of representation for the State of Louisiana was fraught with mischievous consequences; nay, it involved the existence of the agricultural interests of the State. That basis was no doubt a proper one in a community whose institutions were dissimilar in most respects from those of Louisiana; but here imperious necessity demanded that the species of property from which the greatest amount of revenue was derived, and which was the source of our agricultural wealth, should enter and be considered a part of the basis of representation. By reason of the existence of that very species of property, and of the chief products of the State, the white population of the country was comparatively smaller than the same population in the city; but the population of the country was a permanent population, and essentially attached to the soil, and to the institutions of the State. By far the greatest interest in the State—the interest upon which the safety and perpetuity of these institutions mainly depended—was the agricultural interest; and the question presented itself, shall that interest be sacrificed; shall the country be sacrificed, in order that the city may control and direct the destinies of the State? Such an event as that would be most lamentable; and, if it be politic to avoid it, we must choose that basis which will give to the country her just and necessary preponderance.

As for any system of perfect equality in representation, adapted to our peculiar condition, it is out of the question. We have a great and growing city, entirely disproportionate to the balance of the State; a city which is not only the recipient of the products of the State, but which is the recipient of the products of an empire of States. A city which is filling up with all kinds of population, and which is exposed to the outbreaks and commotions of the varied elements of which it is composed. Will any one say that the country would be justified in relinquishing the power which she has wielded, but never abused, for the purpose of transferring it to the city? Without disparagement to the patiotism and virtue that exist in New Orleans—which is without doubt as great as any other city—would it be safely placed? I think not, and the honorable gentleman himself (Mr. Conrad) has on more than one occasion, testified to the danger of making New Orleans the arbitress of the State.

The country is free from those passions, those sudden excitements which pervert and carry men's minds to fearful extremeties, and therefore is a shield to our institutions to guard them from sudden assaults, and preserve them from the insidious machinations of enemies from within or without. It is, therefore, the part of wisdom not to diminish her just weight, but on the contrary to place it on a solid and permanent basis.

Every consideration of sound policy dictates that the country should maintain her ascendency. She has the power and will retain it.

On motion, the Convention adjourned.

Monday, February 3, 1845.

The Convention met pursuant to adjournment.

And on motion of Mr. Scott of Baton

Rouge, Mr. T. W. Chinn was continued as president during the indisposition of Mr. Walker.

Mr. Brent offered a resolution that the Convention meet every evening at 7 o'clock, p. m., and called for the yeas and nays. Yeas 32, nays 27; so the resolution was adopted.

Mr. Read offered a resolution that an additional reporter in English, be appointed.

Mr. Beatty objected to the resolution. The gentleman that had been elected reporter ought to be able to discharge the duties of that office, and would be able if he were not at the same time the reporter of the senate. He was opposed to all sinecures.

Mr. Downs was convinced of the necessity of an additional reporter. It was impossible for any one man to get through, unaided, and make the report from day to day. As for the present reporter being the reporter of the senate, he would state that his occupations in that body did not interfere at all, he conceived, with his duties to this. Either, said Mr. Downs, we should have published regularly the debates, or abandon their publication altogether.

Mr. C. M. Conrad thought it better to renounce the publication of the reports, than to incur any additional expense. He saw no necessity for their publication in such hot haste. The paper upon which they were published were destined to be destroyed by worms and mice. He did not expect, nor did he wish to inflict any thing he might say in this Convention, upon posterity.

Mr. Saunders thought that inasmuch as the publication of the debates had been determined upon, they should be made properly, and that no more duty should be expected from an officer of this body, than that officer was capable of performing.

Mr. Beatty would move an amendment to the resolution, that a reporter be appointed for the French. He was opposed to the resolution, but if it were to pass, let there be no distinction.

Mr. Downs thought it unnecessary to have an additional reporter in French; for the reporters in English could assist the reporter in French.

Mr. Claiborne saw no necessity for accelerating the publication of the full reports. An abstract was given in the papers every morning, and the official reports appeared some days after. He would move to lay the resolution and the amendment on the table.

The question was put on Mr. Claiborne's motion, and it was lost—30 yeas, 32 nays.

Mr. Kenner said he believed that the publication of these reports were the cause of the long speeches that were made. Ever since the meeting of the Convention, we have had the game of nine-pins, that is, one gentleman gets up and imagines points of disagreement, and then knocks them down to show his skill. Another gentleman follows, and so the game is kept up from day to day.

He would therefore move to abolish the office of reporters to the Convention.

Mr. Kenner withdrew his motion, in order to take the question upon the appointment of additional reporters. After that he would renew his motion.

The question was taken on Mr. Beatty's amendment, and it was lost—yeas 25, nays 41.

The question then recurred on the appointment of an additional English reporter —yeas 31, nays 36.

Mr. Kenner then renewed his motion to abolish the office of reporters.

Mr. Covillion moved that said motion be laid indefinitely on the table—yeas 40, nays 22.

Order of the day.—Section 6, article second; Apportionment.

Mr. Beatty said that the question of apportionment had always been, and always would be, a question of great gravity in a representative government. It is one of those questions that must be met boldly, and when settled, it must be settled immutably, beyond the control of legislative power. The experience of the past had demonstrated the impolicy of assigning to the legislature the duty of making the apportionment, even if the basis were fixed. The same causes that made the requisition to that effect in the old constitution inoperative, would make a similar requisition inoperative in the new constitution. It is notorious that for a series of years, there has been a constant murmur against the present defective and unequal apportionment of representation, and that it has been continued despite of public opinion.

The plan of representation that he was

about to submit, was based upon federal numbers. He considered that the safest basis of apportionment for the State. It was true that the city of New Orleans would possess less influence under it than she would by an apportionment according to either numbers or voters, but this he acknowledged was to him a recommendation. In all ages and in all countries the influence of large cities, whenever exercised, has been detrimental to the States in which they were situated. Paris has controlled, and still controls the destinies of France. It was there that the memorable revolution that drenched her streets in blood began, and it was amid her motley and excitable population that the horrors of that revolution were perpetrated. It was there, that one of the best and noblest causes in which mankind were ever engaged, was sullied by crime. It was there that revolution was succeeded by revolution, party by party, until Napoleon placed the imperial crown upon his head. So too, do we find that Rome controlled the vast extent of territory which she aspired to govern. The passions of that haughty city ruled the balance of the republic. The slightest convulsion within her walls was felt in the remotest provinces, until by her overgrown and pampered weight, she fell to the lowest scale of degradation and impotence. Had the power of the republic been diffused in place of being concentrated in the city of Rome, the republic would have possessed some recuperative energy to have withstood the shock of the barbarous hordes, and would not have been a constant prey to intestinal commotion.

Let us profit by the experience of the past. Let us place the country beyond the corroding influence of the city. The republics of ancient Greece were controlled by their cities, and they fell a prey to luxury and licentiousness. Let us pursue any system that will diffuse power over the territorial limits of the State, and that will not concentrate it in any one part, especially in a large city. Let us avoid placing power in the hands of a few. It is dangerous to republican liberty.

Taking the free white population as a basis, said Mr. Beatty, New Orleans would have at present, more than one-third of the representation of the State, and should the increase of that class of population in the city, for the future, be in the same ratio as the past, in a few years the city would have one half. The federal, he conceived to be the correct basis under these circumstances. Slaves were not merely property; they were a portion of the population, of the labor of the State; and labor, he deemed, the exclusive source of wealth. If, said he, we adopt the free white male population as a basis, taking into consideration the fact that the slave population of New Orleans is fast diminishing, it is not beyond the range of possibility that New Orleans may in a few years, without detriment to her own interest, propose and carry the abolition of slavery. In his proposition he had taken the whole population of the State. The whites he had estimated by the census of 1840; the blacks by the assessment roll of 1843; he then took the smallest parish in the State, (in point of population) as a basis for the distribution of representatives, and dividing the whole population by double the number in that parish would give eighty-six representatives, instead of the present number seventy-two; and he would if his proposition were favorably received, hereafter suggest a provision that the legislature should have no power to create a parish unless its population equalled the number he had used as a division. His proposition would give to New Orleans about one-third of the representation. There were a few parishes that he was not positive had the required population, to which he had apportioned a member each; but he had been told that the increase of population in those parishes since the census of 1840 was sufficient to justify him in so doing.

The more I reflect upon the subject, said Mr. Beatty, the more am I convinced that the federal basis is the true one for the general interests of the whole State. The following are the details, according to that basis of my proposition, which I shall propose, as a substitute for the report of the majority of the committee.

"Representation shall be equal and uniform in this State, each parish shall be entitled to representation in proportion to her population ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

At the first regular session of the legislature after the reception of the United States

census for 1850, and every ten years thereafter, the legislature shall choose some number as a representative number.

The number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor.

The house of representatives shall never be composed of less than seventy nor more than one hundred members.

The first representation under this constitution, (ascertained as near as may be in accordance with the above principle) shall continue until after the next United States census, and shall be as follows:

Plaquemine 1, St. Bernard 1, Orleans first municipality 9, second 7, third 6, right bank 1, Jefferson 2, St. Charles 1, St. John Baptist 1, St. James 2, Ascension 2, Assumption 2, Lafourche Interior 2, Terrebonne 1, Iberville 2, West Baton Rouge 1, East Baton Rouge 2, West Feliciana 2, East Feliciana 2, St. Helena 1, Livingston 1, Washington 1, St. Tammany 1, Pointe Coupée 1, Concordia 1, Tensas 1, Madison 1, Carroll 1, Franklin 1, St. Mary 2, St. Martin 2, Vermillion 1, Lafayette 2, St. Landry 3, Calcassieu 1, Avoyelles 2, Rapides 3, Natchitoches 3, Sabine 1, Caddo 1, De Soto 1, Ouachita 1, Morehouse 1, Union 1, Caldwell 1, Catahoula 1, Claiborne and Bossier 1.

On the motion to refer the report of the legislative committee,

Mr. PRESTON said, that he regarded the question as the most important that could come before the Convention, and at the risk of being charged by the honorable delegate from Ascension, with playing at ten pins, by assuming objections and making long arguments to combat them for the reports of our debates, he would occupy some of the time of the Convention on this subject. The reports of speeches would show he had not played a great deal at the game, or been very successful. He made a speech at Jackson, of some length, against the adjournment, which by the way was not reported at all. If his friends and himself had knocked down the pins on that occasion, the State would have been greatly the winner.

I shall oppose the reference of the report; because on this subject as on every other, it would be better to take the old Constitution, establish such changes of principle as are demanded by experience and the will of the people, and leave all the details of carrying them into execution to the legislature, which details if properly and permanently established now, might be most inexpedient or unjust hereafter.

From close observation, I think three principal objects lead to the call of this Convention.

1. The extension of the right of suffrage to all free males of the age of majority.

2. The equalization of representation in the senate, according to the principle of the Constitution, as to the house of representatives.

And 3d. To reform our utterly inefficient and overwhelmingly expensive judiciary.

The question of suffrage has been fully discussed and substantially decided, and although not as liberally as I could have wished, yet it has been placed upon a more liberal footing than existed before.

The equalization of representation is now under consideration, and when disposed of, I shall consider two-thirds of the labor of the Convention terminated, for when the principles of these great subjects are settled, I hope we shall enter into no details, and if we do, I care but little who commits them to writing.

The existing Constitution announces the rule *that representation shall be equal and uniform throughout the State, and shall be forever regulated by the number of qualified electors*, and to carry the principle into effect, provided that a quadrennial census should be made, and the representation apportioned by the rule. To carry it into effect the old Constitution relied upon the guarantee of the oaths of the members of the general assembly to support the Constitution. Yet the provision of the Constitution was not always carried into effect. Therefore, if the principle contained in it, is the only true republican rule that can be adopted, it ought to be maintained and a new and stronger guarantee established to ensure its execution. That guarantee is easily devised by providing that the first quadrennial act of the general assembly shall be to make the apportionment, and that no act shall have the force of law until it is made. It will be asked, would you

stop the operations of the government? There is no danger. No member of the general assembly would dare to stop the operations of the government by the violation of his oath, to support the Constitution. He would know and feel that such a course would cut short his political existence; and the love of life would ensure his fidelity to his sworn duty.

Should we then re-adopt the principle of the existing Constitution, enforce it in the house, and extend it to the senate? I shall maintain the affirmative, for I consider it the very essence of popular and representative government. It is as essential to popular government, as the golden rule of morality—"Do unto others as you would have others do unto you," is essential to christianity.

There are some members of this Convention who have been denominated, not by themselves, but by others, *radicals*. I know not what meaning those who thus christen us, attach to the term *radicalism*. But if it be applied to my principles in relation to the government of this State, then imitating the distinguished delegate from Opelousas, who the other day defined his principles as a conservative, with so much precision and accuracy, I will now define my radicalism. I hold that all power resides in the people, and prefer to all others a popular government. That necessarily implies that the people have the right to govern, and are capable of self-government: and for one I place entire and the most implicit confidence in the honesty, and also the wisdom of their government.

By the people, I mean the free white males above the age of majority. This excludes slaves, because from necessity as well as choice, we all regard slaves as property alone, and have never enumerated them as political persons. Policy also compels us to exclude free colored persons from the exercise of political rights, and indeed may compel us to exclude them from the limits of the State. It is only cavilling to embarrass the subject with minors who are under the control of their parents or guardians, and represented by them; who are incapacitated by nature to govern themselves, and whom, we have already determined in fixing the right of suffrage, are incapable of governing the State. So also women have not and ought not to have any direct power in any other government than a gynarchy. In a popular government they are properly represented by their natural or selected protectors. Their appropriate sphere is the government of the fireside. The family circle is the kingdom in which they should preside, that there frugality should prevail, and no defalcations occur; that their daughters should be the most economically, neat, plain, modest and interesting; their sons intelligent, industrious, generous and noble; there to rear virtuous citizens for the future government and defence of the country, and pure and spotless wives for their aid and comfort in domestic life; that there should be no absconding of husbands, because his house was rendered his heaven by his presiding angel and the cherubs that dwell therein.

Having thus ascertained who are the citizens of the State entitled to govern it, capable of self-government, and in whom we must and do confide the government, it necessarily results that if they could assemble together to exercise the powers of government, each citizen would have one voice on all subjects and questions and the majority would govern in every thing. But it is impossible for the whole to assemble and act in convention, and therefore they must from necessity act by agents. In the Constitution of our government, the legislature represents the *will* of the people, the executive their *power*, and the judiciary their *reason* or justice. The executive officers, the members of the legislature and judges of our courts, are therefore the mere agents and servants of the people. And it is the right, the duty, and for the interest of the people to appoint these agents personally, if possible, and if that cannot be done by the means that may be most convenient to the whole people.

The executive represents the whole State, and each citizen has one vote in his election. But as the general assembly consists of many members, each citizen must have a vote, and the same number of citizens must appoint the same number of representatives. If a smaller number of electors may appoint a greater number of representatives the necessary consequence is that the minority may govern the majority, which is impossible in a popular government, because repugnant to its vital principle.

Representation, therefore, both in the

senate and house of representatives, must be equal and uniform, and be forever regulated by the number of qualified electors in a district or parish to be represented. Any departure from this rule is a violation of the vital principle of popular government which may be attended with no great injury in the particular case, but leads to a disregard of principle in every other case, and a struggle for power to gain advantages by legislative means, and not by greater exertion, under an equal constitution and just legislation.

It has been urged that *taxation* should have weight in regulating representation. If the parish which pays the greatest tax should have the most representatives then the individual who pays the highest tax should have the most votes; and he who pays none, or the parish which contributed nothing to the State revenue, the one should have no vote and the other no representative. Taxation is laid to a great extent on property and profitable professions; at the same time the revenue is principally expended in legislation in the support of public officers and tribunals for the protection of property and profits, and it is but reasonable that enjoying all the advantages of taxation, these should bear its burdens. It would farther be impossible to ascertain who actually paid the taxes. It is certainly not those who pay the money into the hands of the collector, or treasurer, and take his receipt, who support all the burdens of government. The merchant collects and pays for the lumber makers, the ship carpenter, blacksmiths and other mechanics and laborers in ship building, for the master, officers and crew, and deducts it out of their wages and profits. So the planter pays for all the mechanics and producers of necessaries for his plantation; the landlord pays the tax collector, but adds the tax to the rent of the tenants. Capital affords the means and facilities of paying taxes; but labor is the real tax payer, and by this system would not be represented at all.

I contend further, that property affords no criterion of representation. One object of government is to protect property, and it contributes to the support of government; but society is no doubt proportionably burdened for its protection. Beside life, liberty, and the pursuit of happiness, are blessings more invaluable than property, and equally require the protection of laws and representation in the legislature. To prove it, I have no doubt that Crœsus stretched on the bed of sickness, with the certainty of dissolution, would exhaust all his wealth for the protraction of his life. And although property contributes to the support of government, the citizen contributes more in proportion by personal services, although but little of the expenses of government are incurred for his personal security. He is ever ready to defend the State from invasion or insurrection with his life. He serves in the militia six days in the year, works on the roads, and forms the patrols. In conflagrations, to whom do you look for the preservation of your property. I have seen this splendid hotel on fire, and the more splendid St. Charles, and men, without a dollar, in the midst of the fire and smoke, and ashes and wrecks, struggling at the risk of their lives to save them, while the owner stood aloof from the danger.

We have heard much in the progress of this discussion, of the tendency of an unrestrained popular government to anarchy. And there can be no doubt that this, like every form of government has its evils. This is but saying that every thing human is imperfect. But I contend, that the more popular the government is, the more secure and perfect it is.

The revolutions, that the horrors of which, have been depicted, to shew the inclination of the people and the tendency of their government to anarchy and bloodshed, in my opinion, have rather proved: "that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms of Government to which they are accustomed." The happiness of man consists principally in the enjoyment of *power*, *wealth* and *knowledge*. Popular governments diffuse these among the many; other governments concentrate their enjoyment in the few. If I understand the French Revolution, by an artificial system, slowly, gradually and firmly built up—all the power, wealth and knowledge of the kingdom had been accumulated in the king, nobles, military and priesthood; most of the property of the kingdom was in their hands, and exempted from taxation—that the Government presented one vast spectacle of extravagance,

profligacy, pollution and corruption, the burdens of which, were imposed upon labor alone. The oppression and sufferings of the peasantry became absolutely insupportable, when they rose in the might of man and washed the kingdom, in blood, to be sure, because surrounding tyrants, and sympathizing despots forced them to do it. But, they regenerated France, because it was necessary she should be born again. And what is France now? At her head, the only patriot King in Europe—wisdom in council, and energy in war, and economy in government. Wisdom and knowledge diffused, and power not felt, and millions of families as happy and secure as humanity will *permit*.

The decapitation of Charles the First, was the death of the most corrupt and tyrannical government in Europe, and which had become absolutely insupportable to the people—and the restoration of Charles the Second, was the restoration of civil liberty; and in some degree of popular government. His Charter to Rhode Island, Republicans of the present day have clung to with tenacity, and condemned to perpetual imprisonment a martyr of liberty, substantially for resisting it. An eminent cotemporary historian, has declared, that under its regime, "no where in the world has life, liberty and property, been safer than in Rhode Island."

And what is the situation of England at present? By an artificial system of government and legislation well digested and long and gradually imposed on the people by laws of primogeniture, pensions and sinecures, stars and garters, innumerable civil officers, vast armies and navies, a government is firmly fixed on that devoted people, which condemns nineteen million out of twenty millions to toil from day light until dark, for a bare subsistence of their miserable families amidst squallid wretchedness. The whole landed property of the kingdom, by giving the government to the landed interest alone, is in the hands of the million; and the whole production of the tenantry, except barely enough for their subsistence, is extracted, to support the profligacy of this aristocracy. But this was insufficient, and they have, by legislation, created a debt of the Government of four thousand millions of dollars, from the the Government to the same aristocracy the interest of which, is to be paid by the labor of the poor, and toil of the peasantry, to the same bloated aristocracy, to support their extravagance and debauchery. But for the vast armies and navies, which the same toil and labor is made by government to support, the people of England would rise from their degradation and sweep their oppressors into non-existence, and *men* would rule instead of property, and its pampered possessors obtained apparently by law, but in reality, by legal robbery.

Let us then conclude that riches are power, have intrinsic value, and afford in themselves advantages, and happiness enough, without giving them constitutional and political power, and that they will always be sufficiently sought and acquired without fictitious aid from legislation.

It is more seriously pressed that the federal basis of representation shall be adopted, that is, that three-fifths of the slaves should be enumerated in calculating the representation.

The first objection is, that it is an arbitrary rule; there is no more reason for enumerating three-fifths than one-fifth of the slaves, or the whole. It is an arbitrary departure from principle, justifies other departures and leads to the overthrow of representative government.

It is a basis which was adopted by independent States, of heterogeneous populations, interests and institutions, about to form a more perfect union principally for external defence and intercourse, objects that would affect each State very much, in proportion to their population and production, and, therefore, the territory and labor of each might well enter into the calculation of the representation of the whole.

It was, besides, a mere compromise without which, the union of these independent States for the greater good and security of the whole, it is admitted, could not have been effected. It was necessary to quiet the whole, and in fact operates as equally on the whole as any rule that could have been adopted. To regulate the representation in Congress by the number of electors in each State, could not have been adopted with any thing like equality, because the qualification of electors depended on the will and legislation of each State, some requiring high qualifications and others admitting universal suffrage.

But this federal basis can have no application here, where no union is to be formed nor compromise to be made. It has no necessary connexion with the representation in the legislature of one independent State, having a homogeneous population throughout its limits, common interests and the same institutions. As applied to this single State, it is an unequal basis, because it could and would necessarily lead to this anti-republican consequence, that the minority of electors would govern the majority. Indeed, that is the avowed object of its supporters. The gentleman from East Feliciana said, we have the power in *the country* and *we will* retain it. That puts an end to all argument on the subject and reduces the question to submission or revolution.

It is unreasonable to give one portion of the citizens a greater weight in the Legislative branch of the Government than another portion, although equal in numbers.—For example, to give a parish having three hundred electors a representative in the Legislature, and another parish having only three hundred electors two representatives, because they own five hundred slaves. Or to simplify the matter more, to give you double the weight in the Legislature which I possess, because you own, we will say for round numbers, two slaves, especially if they be so old or so young as to be valueless; although I may own houses and lots, lands and stores, and ships, and boats, and mills and manufactories. It is unreasonable, because the two men are equal and the two portions of men are equal. And the man aside, I can never agree that two slaves shall have more weight in the political government of the State, than I possess.

To admit the federal basis would as necessarily make the free parishes and free men without slaves, abolitionists, as it tends to make the Northern States abolitionists with far less reason. And you could not keep even the slaves from a knowledge growing at every election that two of them had more weight in the government than a free man, which would soon destroy the institution of slavery to the infinite injury of the agriculture, the wealth, and I will say, happiness too of our State. But let every slave know that he is what he is, and must necessarily be in this state, *property*, and let every free man know, that he has a voice and weight in the government, and that the slave has none, and you will raise a Chinese wall between abolitionism and slavery, that will secure forever this invaluable institution of our State.

These evil consequences of the federal basis would be greatly promoted by admitting the free colored population to participate in influence in the government instead of entirely excluding them as the existing Constitution does.

A leading object of the proposal is to give the agricultural portion of the State an influence in the government to which their numbers do not entitle them. This would be unjust, if it could be accomplished, and would produce no good but much evil, if accomplished. The harmonious and equal union of the agricultural, commercial and manufacturing interests of the State, and of every other species of industry, useful to morals or physical happiness, promotes the prosperity of all; whilst if antagonistical feeling and struggles could be got up, each would strive to destroy the success of the other, to the great detriment of all.

The great and avowed object of changing our ancient Constitution as to the basis of representation, and of departing from all principle, is arbitrarily to deprive the cities of New Orleans and Lafayette of the weight and representation in the General Assembly, to which the number of their electors justly entitle them.

If we depart from the Democratic rule of the old Constitution to take taxation as the basis of representation, these cities pay half the taxes of the State. The Treasurer's report shew that by adding to the taxes on houses, lots and slaves in these cities, the taxes upon professions, taxes upon the fees of public officers, on auctions, on banks and insurance offices, on pedlars and hawkers, succession devolving to non-residents, &c. &c., these cities pay more than half the taxes of the State. And the observations of the gentleman from Ouachita, that the country indirectly pay a great portion of these taxes, is not well founded. Though some of our produce is sold at auction, and most of it pays commission to merchants; although some of our planters board at hotels and contribute to the support of professions which pay taxes, yet nineteen-twentieths of the tax-

paying power and resources of this city is derived from the commerce which grows out of the exchange of the vast production of the mighty Western world with the Atlantic cities, the Continents of Europe and the Islands of the South.

If we depart from the true principle of Democratic government to base representation on wealth, the estimation of the landed property of the cities of New Orleans and Lafayette is one half the estimation of the landed property of the whole State. But, the country has now 160,000 slaves, for the sake of round numbers, say slaves of the value of fifty millions of dollars. When you take into consideration the capital invested by our merchants and others in ships and steamboats, and all their paraphernalia, the vast magazines of dry goods, hardware and groceries, extending from the parish of St. Bernard to Carrolton, the incalculable amount of rich and costly furniture which has accumulated in the private and public houses during a century, the stocks of all kinds, and real money hoarded away, $8,000,000 now lying in the banks. When you consider the manufactories, machinery, tools and materials of these great cities, you can scarcely calculate how much the aggregate value of all these would exceed the value of all the slaves of the country.

So that there can be no reason for departing from the essential principle of a representative government, except arbitrarily to arrest the growing influence in the government of these growing cities. And this is based partly upon prejudice against them and partly upon a supposed diversity of interests between town and country. It is said cities are sores upon the body politic, and of course, New Orleans will be a mighty sore; that the planters are virtuous and patriotic and incorruptible. To the last proposition, I subscribe most cheerfully; in the first position I am an unbeliever. I believe great commercial cities have exercised a most beneficient influence on the States to which they belong. Commerce unites the citizens of the same State as it does nations by the strong ties of reciprocal usefulness, and mutual benefits. It harmonizes, civilizes, enlightens all, and equalizes their comforts and pleasures. It unites us to our Antipodes, it converts mankind into one family, it is the system of peace, it will extirpate war and annihilate barbarity.

And while I subscribe most cheerfully to the virtue and patriotism of the agricultural portion of the State, I must claim equal virtue, patriotism and intelligence for the bone and muscle of these cities. There is froth above and dregs below; but the soul and body is sound and pure. And when we look at the vast schools of learning and morality which the concentration of population and wealth enables us to establish and support, no one can doubt that as our advantages are greater, we must attain the greatest perfection in all that is useful to man, and exercise the most beneficent influence on all who enjoy our intercourse.

I have next racked my imagination to discover in what the interest of town and country can conflict, but the more I study, the more I find their interest one and indivisible. The merchant and every profession rejoices in the prosperity of the agriculture in the country, because it contributes to their own prosperity. They look with an anxiety to the abundance of the crops, and a fear to every thing that may deteriorate them only inferior to that of the proprietor himself. They are proud of the virtue, intelligence and patriotism of our planters and farmers. The gentlemen of the country have the same deep and abiding interest in the prosperity and welfare of the city. It is the pride of the West and of the whole country and peculiarly of the people of Louisiana.

There is a peculiar mutuality of interest to which I will allude, and I have done:—

The gentlemen of the country have a great interest in the city. A single one of their children may well take charge of and manage their whole plantation. The commerce, the enterprizes, the vast industry connected with our great city will always afford business and a living for the rest of their offspring.

The business of the city to be done by the youth requires but little physical exertion. Being much divided into many hands it is not calculated to enlarge and develope the mental faculties. A great many therefore grow up in softer habits, with feebler frames and intellects, less invigorated than those who are reared in the country. They are habituated also to indulge much in light but expensive amusements; the theatres, balls, social parties, expensive dress and

indulgencies of every kind. Their income does not meet their expenses, and they are led to seek employment in the villages and towns of the country, and other business which it affords, where their faculties, mental and physical develope more, and where the details of commerce and the light ornamental and useful occupations in which they have been engaged, are more available. The amusements in which they have indulged do not exist, they have no motives to their former habits of expense, they engage in business, their income exceeds their outlay, and they are successful in business. The young men of the country of more energy, more physical ability come to the city, engage in commerce and professions, have no expensive habits, are indifferent to amusements, care not about wasting too much time in social intercourse or money in dress, attend only to business, keep all their gain, and are soon entirely successful.

Thus the eminent professional men and large merchants, of great cities, to a great extent, come from the country, and the teachers, merchants, professional men of the country go from the cities. The breed is crossed probably to the very great advantage of both————As by cropping off their excressences and transplanting certain trees in other soils, they produce a more abundant and luxuriant fruit, so with the youth of our city and country, by moderating the exuberances which a growth in either produces, and adding the advantages which are peculiar to the city or country life, the abler, better and more useful citizen is produced in each.

Let us then abandon all prejudices, repudiate arbitrary power, and cling to principle and the old Constitution, where it is based upon a principle so essential to the rights of man. Otherwise the nature of man will struggle for his equal rights until they are attained. In this age we cannot go backwards in intelligence and freedom, we cannot become ignorant and slavish, but must advance in a geometrical progression until the goal of perfection is approached. Commit the government of the State to men, and not to things, and to *free* and equal men, and our harmony will be eternal, and our strength invincible. In this city is a necleus of freemen, around which, the army on our great river, and brave men from every part of the country will unite, and in any possible contingency render our destiny as great as the early events of our history is glorious.

I will conclude in the words of a great philosopher, statesman, jurist and poet of former times, which contains the whole pith of the argument:

"What constitutes a State?
Not high-raised battlement or laboured mound,
Thick wall or moated gate?
Not cities proud with spires and turrets crown'd;
Not bays and broad arm'd ports,
Where laughing at the storm, rich navies ride;
Not starr'd and spangled Courts,
Where low-brow'd baseness wafts perfume to pride,
No—men—high-minded men,
With powers as far above dull brutes endued,
In forest, brake or den,
As beasts excel cold rocks and brambles rude;
Men, who their duties know,
But know their rights, and knowing, dare maintain,
Prevent the long aimed blow,
And *crush* the *Tyrant* while they *rend* the *chain*,
These constitute *a State*."

On motion of Mr. Downs, the substitute of Mr. Beatty was ordered to be printed.

Whereupon the Convention adjourned until this evening at 7 o'clock.

Tuesday, February 4, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer from the Rev. Mr. Clark.

Order of the Day.—The 6th section of the 2d article---Apportionment.

Mr. Benjamin said he desired to make some remarks in support of his motion to refer the report of the majority of the committee to a special committee. He would extend that motion to embrace in the reference the substitute offered by the delegate from Lafourche. (Mr. Beatty.) It was palpable that without something definite for the consideration of the house, it was impossible to proceed with order and regularity, and to avoid entering upon a thousand divergent propositions that would be suggested during this desultory debate. The report before the house was unsatisfactory; the apportionment it suggested was arbitrary. and did not even conform to the very basis which it assumed. The principle of allowing one representative to each parish, whatever might be its population, was independent even of the principle of federal numbers, for the representation of one member was to be allowed without reference, and without regard to the federal numbers in the parish. There was then,

no basis for the Convention to act upon in the proposition of the majority of the committee, and hence it became necessary to recommit their report to another committee in order that some definite plan, founded upon a general principle of equality and uniformity, let that principle be what it may, should be submitted to the action of the Convention; otherwise you involve this body in an inextricable labrynth, for if we take up the details before we agree upon the basis, it will be impossible to arrive at any result. Discussion will succeed discussion; proposition will succeed proposition; and we shall be no nearer coming to a conclusion ten days hence than we are now. It is indispensable that a committee should take the initiatory action, and by an examination of the subject; report to us some satisfactory basis, and at the same time place the house in possession of data which will enable them to apply that basis to the details of any proposition they may submit. It would be appropriate, too, in furtherance of that design, to instruct the committee, to be raised, upon the views and feelings of the majority of the house, in order that their report might conform to the will of that majority. From the tone and feeling that has been manifested since the discussion began, it is evident that there is a great diversity of opinion upon the basis of representation, as well as upon the details of apportionment, upon any basis that might be adopted. The principal points is to resolve the basis upon which representation shall be allowed; that being settled, there will be nothing more than an arithmetical calculation, which will not occupy the committee more than an hour. When the sense of the majority shall be ascertained, as to the basis to be adopted, nothing will be easier than to instruct the committee accordingly; and for the committee to report, in conformity with the instructions, the result of their labors. It may happen that the committee may err in their calculations, butit will be easy for the house to detect the errors and correct them, as it may happen that the committee, feeling themselves restricted by the instructions they may receive, may make such a distribution of the representation as will provoke the animadversions of the minority. But, in any event, their report will supply the house with a rule, a basis, a principle upon which each member may act, and upon which the popular voice may determine.

The details of the report of the majority of the committee, gives the lie to the enunciation with which it begins, "that representation shall be equal and uniform." I object, said Mr. Benjamin, to any deception; I wish the people of the State to be fully informed of the designs entertained upon this vital question. Let the facts be disclosed, in order that they may determine whether the principle proposed, be in accordance with the true republican doctrine. Whether there shall be submission or revolution. If that be the issue let us know it. If such be the irrevocable will of the majority of the Convention, let it be stated in plain and undisguised terms.

Mr. Benjamin next proceeded to review the arguments of the delegate from Ouachita, (Mr. Downs.) He insisted that the principle allowing one representative to the parishes not entitled to such representation by their population, was a violation of that "equality and uniformity" which was the foundation of representation in all republican governments. That the federal basis was not proper nor just in Louisiana, because it was not equal nor uniform in its operation; and that the reasons and motives that rendered that basis necessary in the constitution of this State—that our local institutions were identical throughout the State; and that the *compromise* that produced the federal basis had no relation to the social condition of the body politic in Louisiana.

Slaves were by our laws, nothing but property. But, says the delegate from Lafourche, (Mr. Beatty) we should allow them to form a part of the basis of representation because they are productive labor, and labor should be represented. If this argument hold good, then it might with equal propriety be urged that we should allow representation to oxen, horses, &c., which are attached to the glebe, and which are equally productive labor. This is the first time that I have ever heard the notion that labor should form a part of the basis of representation broached, and especially that particular kind of labor.

Mr. Downs replied to the arguments of the delegate from New Orleans (Mr. Benjamin) and insisted that there was nothing

in the report of the committee to call for the violent assault made upon it. He regretted the line of argument assumed by the gentleman, (Mr. Benjamin) as he had no doubt it would figure in the abolition journals of the north, while he admitted the ability and eloquence with which that gentleman had handled the subject.

Mr. Benjamin said he did not know how to understand the member (Mr. Downs.) That member complimented him for the ability with which he had treated the subject under consideration, and then taunted him (Mr. B.) with the notoriety he would acquire at the north, because he opposed this slave basis. He thought the gentleman (Mr. Downs) was not consequent with himself, and was much more likely to obtain notoriety among that faction by reason of his advocacy and peculiar mode of sustaining that basis, than he (Mr. Benjamin) who so strenuously objected to it.

Mr. C. M. Conrad next spoke in favor of a recommittal, and Mr. Downs replied to him, objecting to the recommittal.

The question was then put and the yeas and nays called for, with the following result:

Ayes—Messrs. Aubert, Benjamin, Boudousquie, Briant, Brumfield, Cènas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Garcia, Grymes, Hudspeth, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Taylor of St. Landry, and Winchester—25.

Nays—Messrs. Beatty, Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Leonard, McRae, Mayo, O'Bryan, Peets, Porche, Porter, Prescott, Pugh, Preston, Prudhomme, Ratliff, Read, Saunders, Scott of Feliciana, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—39 nays; so the motion to recommit was lost.

Mr. Preston then presented a substitute for the section, in conformity with his promise on Monday. This substitute provides: that representation shall be equal and uniform throughout the State; that the basis shall be the electors of the State, a census of which to be taken in 1846, and every fourth year thereafter; and no legislative act to have the force of law unless such census be taken and the apportionment made in conformity; that the number of representatives shall not be less than sixty nor more than ninety.

The substitute of Mr. Beatty was next in order.

Mr. Sellers moved that the substitute be laid upon the table, in order that the section reported by the committee may be taken up and discussed, This motion prevailed.

The substitute offered by Mr. Preston for the first period of the section, was, on motion of Mr. Downs, laid on the table. This substitute would adopt an electoral basis, and do away with the provision entitling each parish to one representative.

Mr. Benjamin then moved to strike out of the section, "each parish shall be entitled to one representative."

Mr. Downs rose in opposition to the motion. He argued that the principle was not a novel one. It had, he said, a precedent in the constitution of the United States, and in those of Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, and New York. This was as far, he said, as he had examined.

Mr. Benjamin said in substance, that his convictions were that such a provision would be a continual source of strife in the legislature, and perverted to party uses and exigencies.

Mr. Ratliff coincided with Mr. B., and was in favor of striking out; he was also in favor of the electoral basis.

Mr. Charles M. Conrad likewise supported the motion to strike out, and expressed himself in the strongest terms hostile to the provision giving one member to a parish, irrespective of its population.

Mr. Porter rose and said, one gentleman (Mr. Preston) had declared in this debate, that the only true principle of representation is numbers—that one man in one place should have as much influence as one man in another—and that to establish any other principle was to overthrow and to annihilate popular government. To this I would reply, said Mr. Porter, that the gentleman was mistaken as to the other principles of representation being subversive of republican governments, inasmuch as numbers was not generally adopted as the sole basis of represention in our sister States.

I will not imitate the example of gentlemen who have gone to ancient Greece and Rome to find examples, but I will refer to the constitutions of the several States in this country, where the science of free government, in my opinion, is much better understood. The book of constitutions from which I shall sustain my positions, is a book of results. I have never seen the debates of any other than the Virginia Convention; and have no knowledge of the proceedings of any other, with the exception of the Convention of the State of Tennessee, where the principle of giving to each county that had two-thirds of the ratio of representation a representative, was adopted, which effectually gave to each county a representative. In the Virginia convention, where the subject of apportionment was more ably debated, with due deference to this house, than any where else, they settled down upon any thing else than numbers. Representation was based on the divisions of the State, east and west of the mountains, upon taxation and numbers, all having their due weight.

Mr. Porter contended that the principle of restraining the influence of large cities was well known and appreciated in all the States of the Union. Equally well understood was the principle of conceding to each distinct and separate political community comprised within the local subdivisions of a State, a voice in the general administration of public affairs. The question upon this floor was not understood. It was not population alone, but locality and incorporated interests that entered, for the most part, in the representation of the major portion of our sister confederacies. The principle was recognized in several of the States that, with the increase of numbers to be represented, decreased the representation. In Maine every county and fractional subdivision is represented. As for the particular objection applied to new parishes in Louisiana, that was easily obviated. Let the legislature be inhibited by this constitution from creating any new parishes which shall not embrace an area of 20 to 25 miles square, and which shall not contain a certain definite population. He was not in favor of cutting up parishes to increase sectional influences, nor did he believe that such had been done. The creation of new parishes had been for the convenience of the people residing therein. In Massachusetts a representative was allowed to each of the fractional subdivisions into which the territory of that State had been divided. In New Hampshire the same principle prevailed, with a clause according one representative for each one hundred and fifty persons, and two representatives for four hundred and fifty, and thus increasing the scale. In Vermont the representation was by towns—the fractional subdivisions into which that State was districted. In Rhode Island so great was the apprehension of concentrated power, that it was expressly provided that no town should have more than one sixth of the representation; it is provided that each town and city shall always have one representative: of course the towns cannot be all of one size. In Connecticut each town shall have one representative. In New York, a large agricultural State, and densely populated, provision is made that each county shall have at least one representative. In New Jersey a representative is accorded to each county, however small may be its population. The State of Pennsylvania has also guarded against the influence of Philadelphia, by restricting the representation of that city. In Delaware no basis is laid down; each county, without respect to numbers, has three senators and seven representatives. In Maryland likewise a similar restriction prevails. Baltimore is not allowed to vote with the county, and in the town of Annapolis a freehold of fifty acres is required to vote with the county. In the actual constitution of Maryland—the constitution adopted in 1838,—it is expressly provided that should any of the counties fall short of the number fixed upon as the basis, they shall nevertheless retain their then representative. That State had carefully guarded against the influence of her metropolis. The old constitution declares that each county shall elect four delegates—the new constitution provides that any county or city, having *less* than fifteen thousand souls federal numbers, shall be entitled to elect three representatives, (no odds how much less,) every county having a population of fifteen thousand souls, and less than twenty-five thousand souls, federal numbers, shall be entitled to four delegates—and that every county having twenty-four thousand souls and less than thirty-five, shall have five delegates; and that every county

having a population of more than thirty-five thousand souls, federal numbers, shall elect six members, (and no more,) and that the city of Baltimore shall not have more than six members; and it further provided that in the apportionment hereafter, the counties having two, three and four representatives, their representation shall not be reduced. Thus, Baltimore, having more than one third the whole population, can never have but six *votes*, less than one twelfth of the whole representation.

In South Carolina, the apportionment is arbitrary; there are one hundred and sixty-one members in the house. The cities of Charleston, St. Phillip and St. Michaels, have fifteen representatives and two senators, making seventeen in both houses, out of one hundred and sixty-one members, say one ninth, and can have no more. Thus the influence of Charleston is guarded against, which possesses about one third of the population of the whole State. In the revised constitution an apportionment is made, and it prescribes that if any election district shall appear, from its population or taxes, not to be entitled to representation, it shall, nevertheless, send one representative.

In North Carolina each county is entitled to send, without respect to population, two representatives and one senator. The amended constitution provides that the senate shall be formed on taxation, the lower house of federal numbers: and each county to have one member, whether it have the ratio or not. Here, again, federal numbers, taxation and county representation is maintained.

In Georgia the constitution provides that one senator shall be elected from each county, without respect to population. The basis is federal numbers; the ratio is fixed at fifteen hundred persons, and so on in progression. Twelve thousand persons shall be entitled to a representation of four members; but no county shall have more than four, nor less than one. So far, said Mr. Porter, we have found no representation based solely on numbers, from Maine to Georgia.

Mr. Porter here gave way to a motion to adjourn, and has possession of the floor to-morrow.

Wednesday, February 5, 1845.

The Convention met pursuant to adjournment and its proceedings were opened with prayer.

Order of the Day.—Sec. 6, Art. II. Apportionment.

Mr. Porter resumed his remarks:

In the Constitution of Kentucky, the basis of representation is the qualified voters; and here, for the first time, the gentleman has found the principle he contends for. The same principle is to be found in the constitutions of Ohio, Indiana and Illinois, and *it* is also in Tennessee, but with a *proviso*, that each county having two-thirds the ratio, shall have one member, which really gives one member to each county. Now, sir, except in the four States above named, and in the old constitution of Louisiana, (which it is well known is but a transcript of the Kentucky constitution,) the principle the gentleman contends for is not to be found in the Book of Constitutions.

Before I proceed to examine the balance of the constitutions, I would, briefly here state, that all of those States, (the four above) are inland States, having no seaboard or sea-port towns, which can ever grow up to have any overshadowing influence, or antagonist interests from the country—when I have examined the balance of the constitution, I shall return to this part of the subject and discuss it more at large.

The next constitution then is that of the State of Mississippi, and here again the same principle of county representation is again taken up—white population with the *proviso* that each county shall always have one representative.

Alabama, again, white population, *provided* however, that each county shall have at least one representative.

Missouri, white population, *provided* each county shall have at least one representative—again this principle is carried out.

Michigan, white population, *provided* each county shall be entitled to one representative.

Arkansas, white population, *provided* each county, although its population may not give the existing ratio, nevertheless it shall always have one representative.

Sir, we see after examining the consti-

tutions of all the twenty-six States, that the principle of county representation is most scrupulously maintained, in over twenty of those constitutions; that it is an almost all pervading principle,—but we will now return to those exceptions to the general rule, the four States above named. Now, Sir, I frankly state, that if I was a citizen of either of those States, I should have but little objection to abandoning county representation; and why? because it is utterly impossible that any antagonist, or separate interests, can grow up between the towns and country. As before said, they are all inland States, and have no sea-port towns. For example, Sir, could the city of Nashville exist without the State of Tennessee? Could it live a year, or even a month, without the support it receives from the country? Could Louisville exist without the support it receives from Kentucky? Could Cincinnati move on in her rapid progress in improvements, but for the immense produce of the State that is continually crowding the city. And Sir, could any of the towns of Illinois or Indiana exist, without the States in which they are situated. Sir, it is evident that they are mutually dependant on each other, and the one cannot exist without the other.

Now, sir, I would ask gentlemen, in all candor, if the State of Louisiana stands on the same footing towards its metropolis? Sir, suppose the sponge was this day applied to all the beautiful and highly cultivated fields in Louisiana—suppose that this State was this moment laid waste, what would be the effect on this city? Sir, it would be but a drop in the bucket; it would feel the shock, (so to speak,) but for a moment. No, sir, the growth of this city depends not on the State; it will grow with the growth, and prosper with the prosperity of every *city, town, hamlet and plantation in the vast valley of the Mississippi.* Then, sir, is it not right to guard against this mighty, this growing and over-shadowing influence? Sir, have we not abundant examples for so doing? South Carolina, having a house of one hundred and sixty-one members, has restricted Charleston, and two counties, St. Phillip and St. Michael, to fifteen votes in the lower house and two in the senate, making seventeen votes, out of one hundred and sixty-one, say one ninth; the city having near one third the population of the State. The State of Maryland has limited Baltimore, which has one third the population of the State, to six votes. New-York city has but one eighth the population of the State, yet she is restricted by county representation, and restricted in the senate. Rhode Island guards against this concentration of power, by saying expressly that no town or city shall ever have more than one sixth the whole numbers to which the house is hereby limited. If these restrictions are necessary in those States, are they not doubly so here? for no bounds can be set to the growth of this city. Then, sir, it is evident that it has been the continual policy of more than twenty States to guard against the concentration of power, and to give to each corporation or county a representation. Now, sir, I would ask where is the safest repository of power, in the city or in the country? I hope the gentleman from New Orleans, (Mr. Conrad) who is now advocating the opposite side from me, will pardon me for quoting his remarks whilst he was debating another question on this floor; I only regret that I cannot give them with the same force and eloquence that the gentleman did; he said that "the safest repository of power was in the country;" I concur with him heartily; but the gentleman went farther and said that "cities were but *sores* on the body politic;" I concur again with the gentleman, and ask where is the safest repository? But I hope I will be permitted to quote again from the gentleman, whilst discussing this question, and arguing that there could be no antagonist interest; he most beautifully represented the State of Louisiana as the kind mother giving nourishment and support to her beautiful offspring (New Orleans) a beautiful figure, and I wish to keep it *up*. Where ought the government of the family to be, with the mother or the child? But, sir, this spoiled *child* (before it is half grown) is demanding the keys of the household, and would manage in despite of maternal authority the concerns of the whole family. Shall the government be given to it, or shall it remain where it is, and where it has never been abused. He asks gentlemen, if they are prepared to destroy this maternal government under which they have grown up and prospered, and place it in the hands of a city, subject to all the evil passions, sudden excitements, violent

evulsions, and all the distracting elements which abound in every city. Sir, it is to be hoped that the sober good sense of this house will refuse to do so; but sir, is there not another point of view in which we may argue the propriety of county representation? permit me to ask is there not a strong analogy between the principle of representation as carried out by the United States among the different States, and as carried out by the States of this Union among their respective counties; sir, when a State is admitted into the Union, it always has at least one representative; but farther sir, it has two senators; the smallest State in the compact, as soon as it is organized, has in the senate equal representation with the largest; then sir, numbers are not strictly maintained in either the United States or in the Constitutions of the different States. Sir, this is a subject in which my constituents are directly and vitally concerned—the question is, are they to have a representation in each parish or not? If you strike out the provision now under consideration, they are deprived of representation from each parish; those parishes, Caddo and De Soto, have a much larger territory and more population than many of the old parishes, which have long had one representative each, whilst those two parishes are represented on this floor by only one. Sir, (Mr. PORTER said) in conclusion, permit him to say, had he done less than submit his humble views on this subject, he should feel that he was unworthy of the high honor conferred on him by a kind and confiding constituancy. Sir, said he, taking the results of the sober deliberations of more than twenty Conventions in the United States, it was his settled judgment that each organized parish ought always to have one representative, and he would vote for that principle; and furthermore, that the city of New Orleans shall not (let her population be what it may) have more than a certain proportion of the representation of the State, (say one-sixth.)

Mr. ROSELIUS said, there was nothing more to be deplored than the efforts made to excite the country against the city. It is not our mission, Mr. President, to face these prejudices, nor should they be suffered to influence our action. Our mission, in my humble conception, is to perfect the social compact which should unite all the citizens of the State, and every portion of it in a common community of interest. Can a nobler or more important object be conceived? And yet, when the question is presented to us, to establish the basis, the very foundation of our representative system, upon a just and proper footing; to lay the corner stone of our social fabric, it would seem that passion is to supercede reason, and an arbitrary rule is to prevail over equality of political rights. An odious and tyrannical rule is proposed, in place of a just, equal and uniform principle. And, when we object to this, as unjust and partial, we are referred for a precedent to the federal constitution. The federal basis was adopted under circumstances essentially different from those which attend the proceedings of this body. No parellel can be established between the necessity in the one case and the necessity in the other. In our State there is no necessity, no occasion for the federal basis, and its operation here would be unjust and partial. It would deprive a large portion of the people of their just representation, and would transfer political power to the hands of a few persons, whose political weight would increase with the number of slaves they possessed.

There can be no compromise, said Mr. ROSELIUS, when principle is involved. I shall never consent to any compromise involving principle. Where the matter is one of convenience, a compromise may well enough be made. But, upon vital questions—questions affecting our very institutions, upon these, I hold it, would be culpable to compromise.

The gentleman from East Feliciana, (Mr. DUNN,) with the candor and sincerity that distinguished him, placed the attempt to apportion the State, so as to destroy all the power of the city upon its true ground. That gentleman said, "we have the power and we shall keep it. This is the sum and substance of all the arguments in favor of the report of the majority of the committee; for whatever other grounds be assumed, and whatever efforts be made to sustain the proposition, the whole matter resolves itself in point of fact to this, "we have the power and shall keep it." It is not right, but might, that is to prevail.

I have listened, said Mr. ROSELIUS, with a great deal of attention to the remarks of

the delegate from Caddo, (Mr. Porter.) That gentleman has read to us extracts from various constitutions to show that numbers are not generally regarded. The principle invoked, wherever it may be found, is superannuated. It was originally derived from the state of representation in England. It is a part and parcel of the rotten borough system of that country, which has not even yet been entirely destroyed, notwithstanding the passage of the Reform Bill. In northern States it has continued to prevail by the force of habit. Among the States enumerated by the delegate from Caddo, figures Rhode Island, whose charter was obtained from that vicious and unprincipled monarch, Charles the Second. The people, it is true, have submitted to the partial and unjust principle where it has prevailed, but is that an argument to authorize us to impose that principle upon our constituents? In Massachusetts, it is pushed so far, that in an isolated spot, situated on the sea coast, where people repair to get oysters and fish, and which contains a few huts for some 6 or 8 fishermen, yclept a town, a representative is allowed. I have this from a respectable gentleman formerly from that State. There are doubtless other towns of no greater magnitude similarly distinguished, but this one he mentioned to me from his own personal knowledge.

Mr. Roselius concluded by an earnest appeal, against the adoption of the section, and in favor of its recommittal.

Mr. Dunn said, that as an allusion had been made to a remark of his in the few observations he had submitted upon the subject under debate, he felt called upon to explain the scope of that remark. It certainly did not intend that it would be proper to do injustice towards the city. He contemplated nothing of the kind. So far from it, he had come here with no other design than to do full and ample justice to every part and portion of the State. In reference to a proper apportionment of representation, which is the foundation of republican government, he (Mr. Dunn) had said that the country had been invested with her fair proportion of representation, and she would not concede it to her prejudice. I deny, (said Mr. Dunn,) that there is any injustice in the principle recommended by the majority of the committee that federal numbers should be the basis, or that there is any thing arbitrary in that basis. On the contrary, I contend that it is peculiarly adapted to the State, and is the only principle that can be established for the permanent welfare of both city and country. Take either population or electors as the basis, and you make New Orleans the arbitress, the mistress of the whole State. New Orleans will control Louisiana. It is to preclude this result that I insist so strenuously in favor of federal numbers as the basis, because that basis is uniform in the balance of the State, and will place the agricultural portion of the community beyond the power of the city. I repeat, I think the city a dangerous depository of political power, and I wish the country to maintain its ascendancy.

As for the principle according representation to each parish, it may or may not be defective. That principle may admit of some modification. But, so far as it has the effect of dividing and diffusing political power, it appears to be reasonable and just. As I am now convinced that the best mode of arriving at a satisfactory solution of the question invoked, will be by referring the whole subject to a committee. I will move for the reconsideration of the vote, by which the question of reference was lost.

Mr. Saunders presented a substitute to the propositions under consideration, and asked that a committee of twelve be appointed, three from each congressional district, to take into consideration the various propositions that were offered, and to report the result of their labors to the Convention.

Mr. Grymes contended that it was always in order to recommit. In this particular case, this is the only reasonable course he could adopt. A majority have decided in this body, beyond the power of reason, that there is necessarily a contrariety of interests between the city and the country, and the former must be shorn of her strength. Every thing that has transpired, the various suggestions and propositions that come from the majority, clearly demonstrates that no quarter is to be shown to the city. It is useless then, to argue a question so far prejudged. I consider the city a victim to the vague and idle apprehensions of the country. All that remains for us is to make the best of a bad bargain, and be duly

grateful for the best terms that may be offered. We have been told that the great God of nature has implanted in the human breast a love of justice and a perception of right, but unfortunately this beautiful sentiment has no practical force upon the calculations of interest and the effect of power. We have before us the example how weak is this assumed love of justice and perception of right in restraining the force of numbers!

I cannot (said Mr. Grymes) perceive any conflict between the interests of the city and the interests of the country. There is no misfortune that effects the country that is not felt, as there is no revulsion in the city that is not felt in the country. But it is useless to say any thing upon that point. The majority have willed that there should be a contrariety of interests, in order that the city may be curbed. Well, be it so. You have the power to do it, and will no doubt do it effectually. All that the city may ask, is that you shall do it reasonably and consistently.

I repeat that all the propositions that have been made are designed for the sole purpose of keeping the city in vassalage to the country. We must submit. But in the name of God, let the principle upon which you act, have the semblance of equality and uniformity. The proposition of the gentleman from East Feliciana, (Mr. Saunders) appears to have that in view, and hence, appreciating his motives, I unite with him in the motion he has made.

Mr. Peets said, that notwithstanding the eloquent remarks of the city delegation, they had not shown how it was possible to make an apportionment upon strict principles of equality. It was out of the question to do so. There is only one way of equality, and that is by general ticket. But as that system suits no one, it is necessary that we should adopt an arbitrary rule, whether it be the number of electors—federal numbers, or territorial representation: in each there will be a disparity and consequently a want of perfect equality. It seemed to him (Mr. Peets) that if the number of representatives could arbitrarily be fixed at from seventy-five to one hundred, instead of from one hundred to one hundred and fifty, it might with equal propriety be conceded that it was as fair to apportion that number throughout the State. I never would consent that the city should be oppressed—but I do contend that small parishes have an unquestionable right to be represented. This is proper and just in itself. But it is politic, in order to prevent the concentration of power—particularly in a large city. For these reasons, said Mr. Peet, I shall vote against striking out.

The question was taken upon striking out the following words from the report of the majority of the committee, "each parish shall be entitled to one representative."

The yeas and nays were called for—40 yeas—32 nays.

Mr. Saunders then moved that the report of the majority of the committee and the other propositions be referred; which motion prevailed with an amendment, that the propositions of the delegate from Jefferson, (Mr. Preston) and the delegate from Lafourche, (Mr. Guion) be also referred—38 yeas to 34 nays.

Whereupon the Convention adjourned until this evening at 7 o'clock.

EVENING SESSION.

The Convention met pursuant to adjournment.

On motion of Mr. Preston the Convention took up section 14 of the report of the majority of the committee, and adopted said section as follows:

Sec. 14. Not less than a majority of the members of each house of the general assembly shall form a *quorum* to do business: but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members, in such manner and under such penalties as may be prescribed thereby.

The 15th section was then adopted.

Sec. 15. Each house of the general assembly shall judge of the qualifications, elections and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

The Convention then took up the 16th and 17th sections, and adopted them as follows:

Sec. 16. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not the second time for the same offence.

Sec. 17. Each house of the general as-

sembly shall keep and publish weekly a journal of its proceedings, and the yeas and nays of the members on any question shall at the desire of any two of them, be entered on the journal.

The Convention then proceeded to the consideration of the 18th section.

Sec. 18. Each house may punish by imprisonment, during the session, any person not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings: *provided*, such imprisonment shall not at any one time exceed ten days.

This section underwent some verbal amendments. Mr. Ratliff opposed the section as unnecessary. The legislature did not need any such rule, and it might be abused and lead to oppression. If the legislature were annoyed by any disturbance, they could appeal to the criminal laws of the country.

Mr. Wadsworth replied that a resort to the courts would not be efficacious to assure the deliberations of the legislature from any obstructions, as persons who might be evilly disposed could obstruct the proceedings of the legislature, and then, when brought before the courts, would have the faculty of giving security.

Mr. Downs said he considered this provision necessary not only to protect the legislature, but also to enforce obedience to its mandates. He corroborated this view of the subject, by an actual occurrence in which some bank or other corporation, had refused to allow the legislature to make an examination.

Mr. Kenner stated he was opposed to the section.

The yeas and nays were called for—yeas 54, nays 7.

The Convention then took up section 19, and adopted it as follows:

Sec. 19. Neither house during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

The Convention then took up section 20, as follows:

Sec. 20. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance on, going to, and returning from the sessions of their respective houses, provided that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made: *And provided, also*, that this compensation shall exist for the period of sixty days only, but if the general assembly shall at any time extend the session beyond sixty days, they shall not receive any compensation for any period beyond the said sixty days.

Mr. Eustis proposed to add to the foregoing section the following, "and provided further, that no adjournment shall exceed ten days."

Mr. Benjamin opposed the proposition. He said that it was not desirable to prevent the legislature from re-assembling during the same year, if deemed essential. The object to be attained was an abreviation o the legislative sessions, and it was accomplished by allowing the members a per diem for sixty days only. If they saw fit to remain but fifteen days in session, and meet again during the year, he could see no valid objection against it. The sessions of the legislature, but in particular cases it might be necessary and appropriate for the legislature to have two sessions in one year.

Mr. Eustis replied that in point of fact there was no difficulty—the difficulty suggested by his colleague (Mr. Benjamin) was merely verbal. The object of his (Mr. E.'s) proviso, was to preclude the legislature from extending their sessions to another portion of the year. And as to any necessity for their meeting a second time, that was provided for by the section empowering the governor in cases of emergency to convene them.

Mr. Claiborne conceived that he understood the object of the gentleman (Mr. Eustis.) He thought that if the words "during the same session" were inserted, it would meet the views of the delegate from New Orleans (Mr. Benjamin.)

Mr. Eustis accepted the amendment.

Mr. McRea moved for the rejection of the clause limiting the session to sixty days.

Mr. Dunn sustained the motion to reject. The public business might require a longer session than sixty days. That period would not be probably long enough for the legis-

lature convened under the new constitution, immediately after its adoption.

Mr. WADSWORTH was opposed to the clause, because it would only affect the members who were poor. It would drive them from the legislature—they would be starved out by the wealthier members. It was paying the legislature, moreover, a very bad compliment to assume that the only way of getting them to attend to their duties, was to deprive them of their salaries after a certain time.

Mr. RATLIFF made an earnest appeal in favor of striking out the clause.

Mr. CLAIBORNE moved that the legislative session be extended to seventy-five days.

Mr. DUNN proposed ninety days.

Mr. BENJAMIN thought sixty days more than sufficient—especially when the legislature would be relieved, as was designed, of the petty local business, which would be confided to the police juries of the several parishes. The legislature of South Carolina was never in session more than twenty days, and three times that period should certainly be amply sufficient in Louisiana. Full one half of the time of the legislature was consumed in bills of a purely local character—such as the establishment of a ferry, and this cost the State more than the privilege to the individual was worth.

Mr. SCOTT of Baton Rouge, confirmed the observations of the delegate (Mr. Benjamin) by his legislative experience.

Mr. WADSWORTH replied that it some times happened that a bill represented as local, involved the interests of a great portion of the whole State. He instanced the Raccourcie Cut-off.

Mr. READ proposed to allow the members of the legislature one half of their pay after the expiration of the sixty days.

Whereupon, on motion, the Convention adjourned.

THURSDAY, February 6, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer, by the Rev. Mr. GOODRICH.

The Hon. T. W. CHINN, delegate from the county of Iberville, in the Chair.

The CHAIR announced the following members to compose the committee upon the 6th section, article 2d—Apportionment; to whom was referred the report of the majority of the committee on the legislative department upon apportionment, and the various other propositions.

First Congressional District.—Messrs. Wadsworth, Benjamin and Grymes.

Second Congressional District.—Messrs. Preston, Roman, and Beatty.

Third Congressional District.—Messrs. Saunders, Scott, and Ratliff.

Fourth Congressional District.—Messrs. Downs, Porter, and Lewis.

Chairman of the Committee.—Mr. Lafayette Saunders.

ORDER OF THE DAY.—Section 9, presented by Mr. CLAIBORNE, requiring that the residence of two years in the case of naturalized citizens, should commence on or after the date of their certificate of naturalization.

Mr. CLAIBORNE said, that his only object in presenting this section, was to preclude the frauds and corruptions which might result on the eve of an election, by a wholesale process of naturalization. By this section, the steam process of manufacturing American citizens, would be arrested. Naturalization would take its proper course, and the two years intervening would afford naturalized citizens a proper opportunity of becoming acquainted with our political parties, and with public men. He hoped that the section would be favorably received by all who desired to preserve the purity of the ballot box.

Mr. GUION favored the object designed by the delegate from New Orleans, (Mr. Claiborne) but would propose a substitute to this effect.

"No person shall be entitled to exercise the right of suffrage in this State, who has not been for the last two years a citizen of the United States."

Mr. CLAIBORNE: I accept the gentleman's proposition.

Mr. EUSTIS said, that he would not have troubled the House with any views of his if any other member had manifested a disposition to oppose the adoption of this section; but as no one had done so, he was unwilling that the question should go by default. What he would offer was not by way of mere argument, but by way of counsel. He considered this question as too important to be a subject of disputation.

I think, said Mr. Eustis, that I see the Convention about to commit a capital error. That through an excitement which I

believe to be but transitory, we are about to yield to the sudden impulses of passion. From the passions of the day, I would appeal to the fathers of the day. I would appeal to you as supreme magistrates of the State, whether it be politic—whether it be expedient, to engraft upon the constitution this principle of exclusion. Would it be wise to pronounce it the judgment—the law of the State? I shall not repeat what I said when a similar subject was under consideration. But I will leave that and pass to the subject before us. And first, permit me to submit to the judgment of the Convention, that the proposition of my colleague (Mr. Claiborne) is an innovation; that nothing of the kind is to be found in the old constitution, nor has it been demonstrated to be necessary in the thirty-two years of experience that we have had under that constitution.

In none of the recent constitutions of our sister States, although this never-ending subject of foreign influence has been agitated among them, with equal, if not greater violence, than with us, has such a principle of exclusion been adopted. Complaints of foreign influence then, as here, have been heard; these complaints have been reiterated in the political contests and defeats of the day, until the ear has tired of them, and yet in none of the constitutions, remodelled or amended amid all this excitement, has any such principle been engrafted upon them—a principle odious by its exceptional and personal character. In appealing to the judgment of the Convention, I would ask them, not to neglect the injunctions of expediency. Not to forget the political history of the country. The operations of the constitution and laws of the several States that have been in existence for more than half a century, and which to my mind have established, and I say it with great deference to the opinions of others, the fundamental doctrine of political equality. We should bear in mind that we are now about to establish the corner stone, upon which will rest the quiet and repose of this whole community, the sovereignty of the whole State. With due humility I would suggest, whether it would be well to abandon the lessons of experience to follow new and untried elements, and which the necessities of the times neither call for nor justify. These are the results of my reflections, and I would entreat the Convention to pause and ponder the consequences before they commit themselves to a policy which will give great dissatisfaction, and which will operate exclusively and with peculiar harshness upon a valued portion of our community. With due deference to the opinions of others, I cannot consider this exclusion as just. The State of Louisiana, in common with her sister confederates, has relinquished the power of making citizens, and has invested it in the general government of the whole Union. Congress have established five years as a proper period to admit foreigners to naturalization, and even if we have the constitutional power, which may admit of argument, it would not be politic, wise or expedient to add any thing to that restriction. When a foreigner resides permanently among us for five years, with the intention of becoming a citizen, and of making this favored land his home—when he marries among us, and has all his affections concentrated in our midst—when every feeling and sentiment dear to the human heart unites him to the soil—is it reasonable, is it proper to treat him with distrust; to deny him the confidence reposed in other citizens, and to require him to wait two years longer before he be placed upon a perfect equality. This distinction will rankle at the heart of the naturalized citizen, and he will feel with pain and mortification that the fundamental laws of the country place him in an inferior position, and in a position in which he is held up as a constant mark for suspicion, and perchance for reproach. Instead of being a united family, we distract and divide our community; we destroy harmony and reciprocity of feeling, and create dissatisfaction and discontent. And why this? Where is the necessity? The object of government is to represent the interests, the feelings and the wishes of all; to harmonize society and to bind it together indissolubly, for the attainment of liberty and of happiness. My colleague (Mr. Claiborne) says it is to prevent frauds! He thinks that a temptation will exist on the eve of an election to make, as he expresses it, "citizens by steam," and that this section will preclude that result. Admitting, for the sake of the argument, that we have been admonished by past experience, that frauds do particularly occur on the eve of elections, no other mode of pre-

venting them can be employed than a legal mode. We find that our sister States suffer from the same assumed inconvenience that we do, and yet no local legislation has ever been made to meet the case. Certainly it would not be proper with a view of preventing the naturalization of improper persons to preclude the natualization of persons legally qualified. It might happen, that the term of five years might expire on the eve of an election, and that a resident foreigner might wish to complete his naturalization with the view to the exercise of the privileges of suffrage. What is there wrong in that. There is no more harm in his being naturalized at one time rather than another, if the laws of Congress be fulfilled, and if he have resided the necessary period and can make the necessary proof. There are natives who are as jealous of the liberties of the country in the other States, as there are in Louisiana; frauds are as rife elsewhere as here, and yet none of the constitutions of our sister States, formed amid all the excitement which has prevailed among them, have adopted such a principle of exclusion. I have said, that as the foreigner when he comes here, is required by the laws of Congress to reside five years before he can be admitted to citizenship, it would be unjust to require two years more residence on the part of the State. Are the five years, in which he may obtain a thorough practical acquaintance with our institutions, to count for nothing in the supposed necessity that an unusual residence is essential to indoctrinate him in sound American principles. I will proceed to show what is the law of Louisiana in relation to the acquisition of residence by aliens. I refer to Moreau's Digest of the laws, page 309. It is as follows:

"That any alien coming into this State from a foreign country, or from any State of the United States, or any citizen of the United States coming into this State as aforesaid, shall after having resided one year without any interruption in one of the parishes of this State, having in the meantime purchased or rented a house or room, or parcel of land, or pursued some profession or employment for a support, be considered as having acquired a residence in the parish where such individual has so resided and complied with the above requisitions, by making proof of the same before any judge or justice of the peace within this State, who is hereby authorized and required to receive such evidence and make it a part of the records of his court, and to grant to the individual an attested certificate to that effect, and the oath of the individual applying, supported by the evidence of another, shall be deemed sufficient."

The old constitution imposed upon the Legislature the duty of pointing out the manner in which a man coming into the State should declare his residence. In pursuance of that requisition the first law, which was amended by the act of 1818, which I have read, required that the person coming into the State desirous of acquiring residence should give notice in writing to the judge of the parish, where he proposed to reside of such intention, and at the expiration of twelve months from such notification he should be considered a resident. The act of 1818 is the law of the State, and methinks it would be a wrong violation of the spirit of justice to embody a principle in your constitution at variance with our past practice, and not called for by any sound reasons of good policy. The existing statute has regulated the conduct of citizens and sojourners. Justice is the foundation of law. Can the assumed emergency, and I do not deny that frauds have been committed, be met by this section? I think not. But how can the evil be remedied? I answer by having judges who obey the laws. If you cannot trust your judges, we have assembled to little purpose; our labors to form a new constitution will be productive of no good. If you can't trust your judges then, there is an end to the liberties of your country. For important as the right of suffrage may be considered, and important as it is in fact, it is nothing in comparison with an efficient and irreproachable judiciary. You may extend the right of suffrage, but unless you embody in your constitution such wise and wholesome regulations as will ensure to your judiciary the confidence and respect of reasonable and well-thinking men, the extension of suffrage, as far as the expectation of the public and the permanent good of the State be concerned, will be a mere humbug; for suffrage will not and cannot affect those salutary reforms which are essential in that most important branch of the public service. It cannot reach your judiciary, and purge it

from the dross with which it may be encumbered. The idea that good government can exist merely by the will of the people, independent of good institutions, is a paradox—it is a mistake. The people govern through their institutions, and if you cannot trust your institutions it is better for us to go home. It must be admitted that many of the judicial functions are treated with levity, and in some instances with shameful profligacy. Our naturalization laws for example, are good. There is not a lawyer that will contravert this opinion. Take the old act, passed under Mr. Jefferson's administration; it is almost excellent law. It was passed at a period and in a body conspicuous for intelligence and purity of heart. In the ancient days of the glories of the republic, and it bears the stamp of integrity and of genius. What do the naturalization laws require? Every one knows the history of those laws. The periods for residence have successively been changed.

Under the administration of Washington, in 1790, the term of residence required for naturalization was at first only two years, and the power was delegated to all the State courts to admit persons to citizenship after the completion of that residence. In 1795, five years after, the period was increased to five years. In 1798, under the administration of John Adams, it was placed at fourteen years. The judgment of the people of the United States was pronounced against this extension of residence, and in 1802, under Mr. Jefferson, the identical term of residence, five years, was restored as under George Washington. The adjudication of citizenship is by a most solemn judicial proceeding. The proof has to be furnished of all the qualifications essential to citizenship, to the satisfaction of the judge, and an oath is administered before God and man—a proceeding infinitely more solemn than attends the rendition of an ordinary judicial decision. The judge who can so far forget his duty as to desecrate the sacred requirements of that law—to prostitute his official station, by a total disregard and violation of its provisions; who can forget the obligations it imposes upon him, which are between him and his God, is guilty of an offence that words are inadequate to express. Setting upon the life of a fellow being, and pronouncing his sentence without adequate proof, is nothing in comparison with the responsibility incurred by that judge who admits a man to citizenship who is not entitled to it. It strikes at the very foundation of the political edifice—there is no name for such an act.

The sentence of reprobation prononnced by the senate of Louisiana upon a profligate judge, who had thus far dishonored himself and exposed the institutions of his country, will act as a warning to all who would imitate his example. It will show them that they are neither above nor beyond punishment, if their moral perceptions are so blunted as to impel them to such outrages.

It is not by imposing restrictions then, on the rights of citizenship, when these rights are once acquired by foreigners; it is not by exclusive legislation that you can hope to effect the object of precluding frauds upon the naturalization laws. You must strike at the root of the evil. You must exact that your judges do their duty, and hold them to do that duty. There is no defect in the laws themselves of naturalization which facilitates the perpetration these frauds. The defect and the cause of the evils that may exist, lie in the manner in which those laws are executed. Here is the true cause.

I am ready and willing to go as far as any one, to put a stop to these evils. I am ready to apply proper remedies, but I cannot sanction a principle which is subversive of the rights of persons claiming to be citizens, and who are citizens, in conformity with the supreme laws of the land, and in virtue of solemn decisions of courts of justice.

There is no complaint of the manner in which foreigners are admitted to citizenship in our federal courts. The proceedings of law are enforced there. They are strictly observed by Judge McCaleb, as they have been by all his predecessors, and not a case has ever occurred in those courts to which the least exception could be had.

It is properly within the competency of the legislature to provide laws to meet the emergencies of the present case. This section, in our fundamental law, at any rate is superfluous. The legislature might direct that the courts should not naturalize within three months preceding an election. What is to prevent them from doing that? I do not suggest this myself, as a remedy;

but it can be done by the legislature, without embodying in your fundamental law an untried novelty—an exclusive and mischevious principle. There is another remedy, and a more effectual one. If you can't trust your judges in the matter, forbid them from naturalizing foreigners at all. Take away from them the power, and I will go with you. That can be done by a single line. The exercise of the power of naturalization by State courts has been conceded by congress through comity, and it is within the competency of the State to decline the authority. This is perfectly plain to members of the legal profession. The judicial power of the United States is vested in a supreme court and such inferior courts as congress may from time to time ordain and establish. This is the extent of the judicial power of the United States; it goes no further. I repeat, if you can't trust your judges in the matter of naturalization, take away from them the power to naturalize. I do not say they are unworthy of confidence; nor would I act upon that principle. In some cases congress has given State tribunals jurisdiction in revenue matters; in other cases in criminal causes; this jurisdiction has sometimes been declined, therefore, no difficulty can exist if the State should think proper to relinguish, or the parts of her courts of justice, jurisdiction in naturalization cases.

Mr. Eustis alluded in the course of his remarks, to the importance of placing the judiciary system upon a proper basis; of sustaining its character for impartiality, for intelligence; for honor and for integrity. A well organized judiciary was, in his conception, the most essential safeguard to the rights of the citizens, and the greatest preservative of our public institutions.

In conclusion, he thanked the Convention for their patient attention. He appealed to them to reflect well upon the consequences of attempting to apply a remedy for temporary abuses, which were perfectly within the competency of the State authorities to remedy; and for which we might invoke a principle in the constitution in vain. We should profit by the experience of the past; by the experience of wise statesmen, and not wander in the dark without chart or compass to direct them. In the fundamental basis of our government nothing should appear but what experience has sanctioned, and the maturest judgment has confirmed.

Mr. Claiborne said it was not his intention to enter into a discussion of the question involved. He was convinced, without prejudice to any class of our fellow citizens, that some rule in the constitution was essential. The section before the Convention applied to the future: it was not to preclude the effects of naturalization, but simply to prevent the abuses of naturalization on the eve of an important political combat. Objection was taken to this, and it was pronounced by the gentleman (Mr. Eustis) a harsh and rigorous restriction. With equal propriety it might be said to be harsh and rigorous to require residence at all, and that the opposite extreme, making residence unnecessary in the acquisition of citizenship, would be the just and proper policy. If every reasonable restraint in government is to be considered a harsh restriction, we had better abolish the government at once, and resolve society into its original state of individual independence and anarchy.

I repeat, Mr. President, that it is not my intention to argue this question; I will leave that task to more competent hands. The gentleman (Mr. Eustis) complains that this subject has been suggested under excitement. If the delegate means to say that I have supported it under any excitement, or under the influence of prejudice, I deny emphatically the charge. If any one has been excited, it has been the member himself. I deny that I wish to make exceptional restraints, bearing exclusively on naturalized citizens, or that I designed exciting feelings of ill will between naturalized citizens and native citizens. Here again it is the gentleman who is at fault and not I. I have made no appeals to local feelings. We have required two years' residence to acquire citizenship from our fellow citizens of the other States, and they are in the mean time, during these two years, subjected to all the duties and obligations of citizens; whereas a person from another country, before he is naturalized, is exempt from all these duties, and has certain advantages in being allowed the privilege of suing in a particular court, and of having transferred any civil proceedings instituted against him to that court. I wish to put the native citizen on an equality with the naturalized citizen, in relation to residence. That is all, and I am indeed astonished it should have provoked so much feeling. I disclaim all

prejudice against naturalized citizens, who have conformed to the spirit and intention of our laws. I am acquainted with many most excellent naturalized citizens, and the proof that there is nothing improper in the principle proposed, is, that they heartily concur in the necessity of some rule by which our naturalization laws may be preserved from the prostitution of party purposes, and from abominable frauds and corrupt evasions. This platform is large enough for native citizens and naturalized citizens—for all reasonable and judicious of whatever country or party they may be. I repeat again, far be it from me to excite passions or create excitement. I sincerely deprecate any thing of the kind on any occasion, and more especially on an occasion when there should be so much moderation and so much patient and dispassionate investigation.

Mr. Marigny said that it would seem from the presentation of this proposition, that the lessons of experience were not always salutary. After the debate, no less full than it was animated, upon the subject of the qualifications to be required for membership to the house of representatives, during which debate a principle was embodied in the original proposition that four years residence, to count from the date of the certificate of naturalization, should be essential to the qualifications of naturalized citizens, making in all nine years' residence, was rejected by the casting vote of the president. It was to be supposed that a similar exclusion would not be pressed upon our attention. That the principle having once been rejected, it would have been considered settled, and would not have made its appearance again to disturb our deliberations.

But, this reasonable presumption is disappointed, and it is attempted to exclude for two years the citizen, who has been naturalized in virtue of your laws, and who has resided the full period they prescribe. After receiving his brevet of citizenship from your highest tribunals, and with all the solemnities of an oath, he is told that this is not yet sufficient: that he must wait, although he is a citizen, two years longer before he can exercise the most important privilege of citizenship—the right of suffrage! It must be acknowledged, that this is a most anomalous and curious proceeding! And the attempt to engraft it upon the constitution again, after it has signally failed upon another point, is a most extraordinary mode of reviving an extinct question, and of giving it vigor.

I am diametrically and invincibly opposed to this section, because it is unjust, and partial, and not only is it unjust and partial, but it is likewise opposed to the true interests of the city and State; and is aimed more particularly at the city—although it comes from a delegate of the city, contrary to my expectations, and I may add, to my great surprise. That delegate, one would have presumed, from what he has seen passing in the house, would at least perceived that his proposition was unfortunate and not opportune, to say the least. In fact if the country delegation should sanction this principle, it will not be because they consider it just or reasonable, but because they will comprehend how prejudicial it will be to the city, against which they appear determined to do every thing to paralyze any little influence she may still retain in the operations of the government.

I feel well assured that if a foreigner was to land in the parish of St. James, and was to go through all the formula necessary to citizenship, and at the expiration of five years, was to propose to vote, no one would stop him and require two years' more residence, if this section were actually in force; and certainly it would be but reasonable that they should not; for if in a probation of five years, he was not identified in feeling with our community, it would be evident that he would never be identified—no more in two years longer than ten years longer, or fifty years longer! Why should it be different as relates to a person from Europe landing in New Orleans?

Why? The answer is obvious. It is because the electoral influence of the city is dreaded. The increase of the population of the city is becoming greater and greater every day; and it is apprehended under the influence of universal suffrage, the city will acquire sufficient force to wrest power from those that are dilapidating the public treasures. It ought to be sufficiently well known that if the denunciations hurled against naturalized citizens were well founded, and which it would be reasonable to presume I would comprehend at

my advanced age and with a political experience of thirty years, I would be the last one to sustain them, in what I consider to be their just privileges, and which privileges could only be forfeited by an hostility to our institutions and a disregard of their duties as citizens. If they were pernicious to our institutions in a time of peace, or in a time of war, I certainly would not hesitate to sustain the interests of the land of my birth. It is not at my age that reason and judgment are seduced by the sudden inspirations of an extravagant and dangerous philanthrophy. To my experience, adopted citizens have uniformly conducted themselves in a manner which evidences that the interests of the country, that its prosperity and the perpetuation of its institutions are dear and sacred to them. The principal design in this determined hostility to adopted citizens, appears to have its chief weight in the prejudices of the country against the influence of the city by cutting off a large class of persons from the privilege of suffrage. And, I again repeat, that it is with astonishment and regret, I find my celleague from New Orleans promoting that object, without reflecting upon the secret designs of the country, at a moment when it is a question to make the number of electors the basis of representation. His attempt to sustain the section upon the ground, that the proposition is based upon a perfect equality between the citizen of New York or of Massachusetts arriving among us, and a person arriving from Europe has signally failed. It is evident that the latter has to undergo a probation of five years before he can be politically on the same footing with a native citizen, and if you require two years longer at the expiration of the five years, it is evident that the latter requisition operates with greater severity in one case than the other.

The framers of the present constitution, among whom I had the honor of being one in 1812, apprehended much less than you appear to do this foreign influence. They required as well from naturalized citizens as from native citizens a residence of but one year in the State and six months in the parish. Why were they so liberal? Because they knew from experience; an experience which was fully confirmed by the glorious events of the 8th January, 1815, that it did not require an indefinite period for strangers to become attached to our institutions and to peril all in their defence. It may be alleged that foreigners never make good citizens; that they are never attached to our institutions. This has been said and will be said again. But what do facts prove? What does history say? It denies emphatically all such allegations. Never has the tocsin of danger been sounded; never has the drum called patriots to arms, without foreigners hastening to your camps and enroling themselves in your companies before even they have their certificates of naturalization. They repair to the thickest of the fray; to the most exposed and dangerous positions and dispute in valor and in patriotism with the natives of the soil, the meed of the public praise. It would seem that love of liberty is inherent among the thousand and tens of thousands who seek an asylum from the despotisms of Europe. There are some nations, France for example, where the prosperity and advancement of the United States is a part and portion of the public impulse and the public feeling, and it would be almost ungrateful to attempt to repress that sentiment. Louis Phillipe, the citizen king and the profound and sagacious statesman, may have paid a visit to the young Queen of England to express to her his desire to preserve the peace of the world, but in great emergencies be fully persuaded that France and the United States are inseparable allies. There is no Frenchman who does not appreciate the secret hatred borne by England towards our republic, and does not participate with hearty good will in our dislike of England and her intermeddling policy. Authentic facts and glorious results are the evidence of reciprocal partiality for each other, between the United States and France. Neither the gold nor the machinations of England can arrest this mutual enthusiasm, not only between the good and virtuous of both countries, but even between the vicious and the depraved, even pirates; for we have the proof, that not all the gold of England could purchase the men under Lafitte, at Barrataria, but that even at the very risk of their lives as outlawed criminals, as soon as the fleets of England appeared off our shores they repaired at once to the American camp and offered their services in defence of the

American cause. They abandoned their crimes for the purpose of contending against the natural enemy of the United States; and while they took the most dangerous positions on one side, the naturalized citizens on the other, marched in close and serried columns, to meet the common enemy and to drive him back. Wherever heroic deeds were to be done, pressed forward a naturalized citizen; your cannons were manned by them. In one place stood a St. Gème, the Achilles of the American army, defying danger and striking a blow for liberty; in another a Dominique Gou, a Garrigue Fleaujac, and a host of others, of whom Louisiana will ever be proud to rank among her citizens. Even the people of color who had sought refuge among us from St. Domingo, felt the general enthusiasm, and full of heroic courage they marched under the command of the brave Savorry, who stimulated them by the cry "March on, my friends, march on against the enemies of the country." And as in that solemn hour of death and of victory, there neither was on the field of honor distinctions of classes nor distinctions of languages; the hero of the day, the immortal Jackson pressed to his bosom that brave man, whose disinterested devotion had rendered him so formidable.

Can we cast a retrospective glance at the past—can we reflect and do justice to the services of foreigners—first in assisting us to achieve our independence and secondly in preserving it, and say that we really apprehend danger from their becoming citizens? No; it cannot be. Your hearts cannot dictate so odious an exclusion! It must proceed then, from the fear you entertain that the city will absorb the political power of the State, if you do not restrict her citizens, and deprive a large portion of them of the right of suffrage. But your fears of the city are illusory, and if they were not illusory, you should take no other than constitutional, legal and proper measures to avert the object of your terrors. Do not vaunt so much the talents and eloquence of the city, and be frank enough to admit, that your only design is to keep possession of the public treasury? It is that which induced you, on the one hand, to resist an uniform basis of representation—a basis founded on the electors; and on the other hand, it increases to decrease by every means the circle of suffrage in the city, although you do not choose to make war directly against the principle of universal suffrage. I consider the proposition before us as supported in a principle of Machiavelism, and it certainly can never receive my sanction.

Mr. Downs said, that he was totally opposed to the adoption of this section. His reasons were similar to those he had given when a similar principle of exclusion was under debate. The section was not clear, as it was, and he presumed went beyond the designs of its authors. At least an interpretation might be given to it still more exclusive and unjust. It might be understood as applying even to citizens who have been previously naturalized, and whose term of naturalization at the period of the final adoption of the new constitution had not reached the term of two years. In order to prevent that construction, he would propose an amendment that this section should be operative only in future cases of naturalization. He should, however, vote against the section, even if his amendment prevailed.

Mr. Soule said that before the Convention decided upon a matter which had given rise to so much discussion, he desired to submit a few observations and to show what were the grounds that would determine the vote he was about to give. I am opposed, said Mr. Soulé, to the original proposition of the gentleman from New Orleans, (Mr. Claiborne) to the substitute offered by the delegate from Lafourche, (Mr. Guion) and also to the amendment of the member from Ouachita (Mr. Downs;) although if I thought it possible that either of the principal propositions would prevail, I would vote in favor of the amendment. Let it not be presumed that my opposition to those propositions is based upon the inconvenience that would result in attempting to carry them into practice. As a naturalized citizen, upon that point I shall be silent. I oppose them because they are repugnant to our institutions; and in saying this, I dare to hope that I am conforming to the legitimate desires of our common constituents, who appointed us their mandatories, that we might consult upon the great and fundamental principles of republican government, and not upon mere questions of temporary expediency, which germinate passion, and give rise to local animosities and bitter feelings of resentment.

Yes, Mr. President, I can solemnly aver

that I was far from expecting that this Convention would disappoint the wishes of the people and controvert the very objects for which they called it into existence. No one questioned at the moment it convened that it would be a faithful exponent of the public wishes, and its panegyrists have told on several occasions since its convocation, that if there was an incontestible fact it was this: that the Convention could not express any thing else than the sentiments of the people—in a word, so great were the identity between the creature and the creator, that they were one and the same thing. Nothing, however, is more unfounded! But it would appear that in calculating the consequences of such an avowal, some have taken care to shield themselves under the pretext that it is impossible to take the will of the people as a guide for the proceedings of this body. Surprised, as I might well be, at such an avowal, I have listened with deep attention to the arguments of those that favor it; and I must say, in all sincerity, that I have heard nothing to sustain their position.

I am convinced more than ever, that the principles of the government under which we live consecrates the most perfect equality, and that this principle has its source in the common will of the masses, and therefore cannot be dependent upon the will of the few. I am, however, necessitated to declare that all the various efforts made here to induce,no matter what majority, to sanction a clause despoiling an entire class of our fellow citizens of their most precious and inestimable rights, by depriving them for two years of the rights of citizenship under the United States, convince me that if reason and justice be upon the side of those whose cause I maintain, the force of numbers in this Convention lies somewhere else, and it would seem that a disposition prevails to give a very different construction to the principles that constitute republican or popular governments.

Can any one believe, Mr. President, that such a proposition as the one embraced in the section before us would have been suggested had the late presidential struggle terminated differently? We are too prompt to cede to the weakness of humanity; too easy to fall under the dominion of our passions, and when they reign supreme, we are not reluctant to disregard the dictates of reason and of justice! And why? We are told of conformities! We are asked to sanction doctrines that have no other motive than temporary conformities. But I would ask, are we assembled here to yield our judgment to a temporary outcry against a portion of our citizens, which has been excited by the political defeat of one of the contending parties, and to legislate agreeably to the passions and feelings of the moment. Or are we here to treat of principles, and to settle the fundamental basis in accordance with republican principles? If the first be in fact, our object, we had better declare the Convention a permanent legislative body, for mere legislation is but the result of the occurrences of the day and of the common routine of human life, and to each event or modification of the political or social phases, we should provide an enactment. But if we are sincere in the desire to accomplish the only mission for which we are assembled, should we not first ascertain whether the measure proposed is consistent with fundamental principles.

It must be obvious, from the range and character of the functions pertaining to this body, that our mandate is a restricted one, and that it is clearly defined. The law under which we have assembled, declares formally that we are to consult upon but three measures of general utility to the State. As regards these measures, at least, we cannot exonerate ourselves from the responsibility imposed as well by the law itself, as by the will of the people. The abstract individual right of resisting the realization of these three great measures I concede; for the minority have their representatives here for the purpose of defeating them, inasmuch as the minority could not defeat the popular will in calling the Convention. I find nothing extraordinary in that desire on the part of the minority but what I find most extraordinary, and I may add most deplorable, is this, that the minority have by some means or other succeeded in converting themselves into the majority of this body, and have placed themselves in a position to defy the popular will and to defeat all expectations that this assembly will carry into effect the objects for which they were convened.

Inasmuch as the mandate calling this Convention is a restricted mandate, let us

see what are the restrictions which are attached to it. It is first declared that the Convention shall extend the right of suffrage, that is, they shall give greater liberty to suffrage than was permitted in the old constitution. In vain have I sought in that instrument for any distinction in the privileges and in surities accorded to citizens, between native citizens and naturalized citizens. There is no such distinction, and I can very well conceive the reason. When that constitution was formed no one thought of the distinctions which certain persons are so desirous of creating at the present time, or if these distinctions were thought of, no one dared to mention them, as at that time the preponderence of the population were naturalized citizens, and such an attempt would have stifled in the bud. Such a line of demarcation in 1812 would have been considered an outrage—an odious attempt at proscription, and would not have been entertained for a single moment by any constituent body emanating from the people. It would have been striking a blow at the fathers of the very men who sat in that Convention—they would have been the first victims to the measure which is now before us for approval.

What, asked Mr. Soule, is the essential character of the government under which we live? Is it an aristocracy or a democracy that controls our destinies? Some might hesitate to reply pertinently to this question. I shall be candid enough not to hide any of my impressions. The democratic principle of which we boast, is not so absolute nor so general as to preclude all vestiges of aristocracy, and I must confess that in certain departments of our government, the senate for example,—when perhaps it may be prudent as one of the conservative principles upon which so much has been said in this body,—its traces are very visible. It pervades other portions of our system, unfortunately; but it must at least be conceded that above all our system of government, is a representative system of government, and that the first corollory is, who shall be represented? Is it not all the consistent portions of the people, or in other words, those that formed a portion of the political society at the formation of the government? That must necessarily be conceded, unless one portion of the people relinquish their political rights, and I even doubt whether they have that power; you cannot sacrifice them and prescribe them from equal political privileges with their peers, without overthrowing the very prinple upon which reposes the edifice of government.

Temporary expediencies have been invoked. But what is the nature of these temporary expediencies. To my mind, these expediencies smack of despotism—of the subserviency of the many to the few! I am yet to hear any valid reasons for these assumed expediencies. For 32 years, has the old constitution guaranteed the same privileges to native and adopted citizens, without distinction, and no one until now has ever complained of the inexpediency of placing the one and the other upon an equal footing. Assuredly, there must be some other motives—some other designs than those that are professed, and which it is endeavored to sustain by a reference to the abuses said to have existed at our last elections. Will any one tell me what connexion is there between those abuses and the question before us? These abuses are the results of some defects in the mode of carrying out the naturalization laws of the United States, a subject which is under the exclusive control of Congress—all power upon the subject of citizenship having been transferred by the States to the federal government. But what is the question before us? Is it to preclude improper naturalizations? Congress alone have control upon the subject. It is not this! What is it then? It is to deny the legal effects of naturalization in pursuance of the laws of the United States and of the decree of a competent court, and to suspend the operation for two years in the State of Louisiana. To state the proposition fairly is enough to show its partial and exclusive bearing!

My personal position as one of those belonging to the class of citizens whom it is proposed to proscribe and to mark with the seal of exclusion, forbids me from entering into the details of the question. But I may be permitted to ask, taking a general view of the measure as a high political question, whether it is conformable to the principles of justice, and whether it can be carried into effect without a violation of the supreme and superior law of the land—the laws of the federal government. They prescribe how citizenship shall be acquired,

and these requisitions are exclusive of State control. A man once recognized as a citizen in pursuance of those laws cannot be compelled to forego the privileges that citizenship confers, no more for two years than for twenty years, or a total exclusion. His rights of citizenship once acquired are complete, and can neither be revoked nor suspended. If these privileges were not available as soon as acquired, the proud distinction conferred by the federal government would be a mockery and the person acquiring citizenship would be liable to be ousted from the privileges, or to have them interrupted or curtailed at the whim of our accidental majority.

But if this Convention, representing the sovereignty of the people of Louisiana, had this power, I doubt very much if the people would sanction its exercise. The people of Louisiana would not approve so great an outrage. They would repudiate it, and repulse it with scorn and indignation. The attempt to introduce it into the constitution shows how pernicious are political excitements and passions. They would transgress the fundamental principles of the government, and trample upon the equal rights of those who were so unfortunate as to fall under the ban of partizan displeasure.

There is no justice, said Mr. Soule, where there is not equality. Equality is the foundation of justice. What is the object of requiring residence to acquire citizenship? Is it not for the purpose of identifying the new-comer with the institutions of the country, and of familiarizing his mind with their operations? Well, if that be the intention, and assuredly there can be no other, why do you think that two years is sufficient for a native citizen from one of the other States, when you exact seven years for an European? Is not the five years amply sufficient, without exacting at the end of that period two years more for him to acquire all the information and all the attachment to the land he has chosen by preference, or by necessity, if you will, for his home and for his affections? There is not so great a disparity between the aptitude of one class of persons to understand republican institutions, and another class. The native has his patriotic impulses and his appreciation of the institutions of his country. But is that any reason why an adopted citizen should not be actuated by similar impulses, and governed by similar sentiments of love for a free government? Is the adopted citizen so devoid of intelligence and patroitism as to be insensible and indifferent to the interests of the government of his choice? He has left his native country to avoid persecution, or to better his condition; he comes to Louisiana, and after having resided honorably five years in the State, he asks and obtains his naturalization papers, presuming that they confer the privileges of citizenship; he approaches the ballot box to participate in the selection of those that administer the government, which imposes taxes and obligations upon him, and he is repulsed. He is told that he is not yet an American citizen, but that he must wait two years more, before he can exercise the privileges of citizenship.

But we have been told that a certain degree of intelligence is necessary to understand our institutions, and in this intelligence foreigners are wofully deficient. I deny there is more ignorance among the foreign emigrants, considered as a whole, than among the masses of our other population; or that there is less general aptitude in understanding our institutions. The truth is, that a perfect knowledge of government is confined to the smaller portions of society. Government is a science of reflection and observation, and has to be studied attentively. The theory of government is an abtruse matter, but the operation of government is felt by every one. Every man knows whether he enjoys more or less liberty, or is exposed to few or greater burthens. It is unnecessary to be profoundly versed in government to appreciate all this; one man feels results as well as another, although he may not clearly understand how these results are effected. As for guarantees of fidelity and attachment to the State, there is nothing to make an European less susceptible of these attachments than a New Yorker or a Bostonian. I claim no superiority in point of intelligence between the natives of our country and the natives of another. One community may possess more general knowledge, and may have made greater progress in the arts and sciences than another; but in all civilized countries the general aptitude for acquiring information is about

equal; and a man from a foreign country is as capable of understanding the system of our government as the native of the soil—that is in the aggregate.

It is unfortunately but too true that frauds have taken place, and that our courts of justice have relaxed and enfeebled our laws; but can it be said with truth that our adopted citizens have sullied our institutions to a greater extent than native citizens? or that they have promoted, as a class, the evils which we all deplore? Facts will not bear out that assertion. I have in my possession a title, by which a miserable property in the third Municipality has been transferred to no less than eight hundred and seventy-five individuals, of whom two thirds at least are native Americans. But you may say that strangers also participated! I admit that they have. The great plotters, however, the manipulators of the electoral frauds, were not strangers! In virtue of what principle of justice will you wreak your vengeance—upon the instruments, while you suffer the authors to go unpunished.

I complain as much, and with as much justification, of the frauds that have been perpetrated as any one. I ask, with as much sincerity as any one, that measures be taken to arrest them; but I cannot consent that one constitution should be marked and blurred over with inequalities and exclusions, which would not in fact prevent frauds, but which would result in positive injustice and great individual wrong. Let us not then be impelled by sudden passion to do an act, which in momemts of calm reflection our judgements would condemn; and which in after time, when the present excitement shall have passed away, we should blush to find embodied in our organic law.

Mr. Downs observed that this section was entirely useless in any event; and in support of the opinion that if evils resulted from the naturalization laws, congress was both competent and appeared willing to apply the proper remedies. He read the report of the committee upon the judiciary of the senate of the United States, presented by Judge Berrien. The gentleman who made this report, belonged to the political party from whom the assaults upon adopted citizens came; but that gentleman had discarded all those wild and visionary notions of danger from naturalization, that have become of late so constant a theme of declamation.

Mr. Claiborne expressed astonishment that the member from New Orleans, (Mr. Marigny,) could imagine that he, Mr. Claiborne, would promote any scheme to cut off the just influence of the city. The absurdity of such a charge appeared upon its face. He certainly wished the city to possess her just weight. He again repeated he was not partial to any class in the community; they were all entitled to protection; but what he had insisted upon was, that the section was proper, inasmuch as it was calculated to arrest frauds and evasions on the eve of our political contests.

The question was taken on the amendment proposed by Mr. Downs, and it prevailed without a division.

The question then recurred on the adoption of the section, and the yeas and nays were called for.

Yeas—Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cénas, Claiborne, C. M. Conrad, F. B. Conrad, Covillion, Culbertson, Derbes, Dunn, Grymes, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, W. B. Prescott, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, M. Taylor, R. Taylor, Trist, Voorhies, Wadsworth, Wikoff, Winchester and Winder—42.

Nays—Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Eustis, Garcia, Humble, Hynson, Ledoux, Leonard, McCallop, McRea, Mariginy, Mayo, O'Bryan, Peets, Porche, Porter, W. M. Prescott, Preston, Ratliff, Read, W. B. Scott, T. W. Scott, Soulè, Splane, Stephens, Waddill and Wederstrandt—32.

Mr. Stephens moved to rescind the rule for evening sessions, and the yeas and nays were called for.

Yeas—Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Grymes, Garrett, Guion, Hudspeth, Hynson, King, Labauve, Ledoux, Legendre, Leonard, McCallop, Mazureau, Porche, Preston, Prescott of St. Landry, Prudhomme, Kenner, Roman, Roselius, St. Amand, Soulè, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstrandt, Winchester and Winder—42.

Nays—Messrs. Beatty, Brazeale, Brent,

Cade, Carriere, Chambliss, Covillion, Downs, Eustis, Humble, Lewis, McRea, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Trist, Waddill, Wadsworth and Wikoff–30.

Whereupon the Convention adjourned until to-morrow at 11 o'clock, A. M.

FRIDAY, February 7, 1845.

The Convention met pursuant to adjournment and its proceedings were opened with prayer from the Rev. Mr. Warren.

On motion of Mr. SAUNDERS, the Committee on Apportionment were authorized to order such printing to be done as they deem essential.

Mr. PENN, who was absent yesterday at the moment of taking the vote upon the clause requiring that the residence of naturalized citizens should be counted from the date of their certificate of naturalization, asked leave to record his vote in the negative, which was granted.

On motion of Mr. RATLIFF, the committee on contingent expenses were authorized to pay each of the Convention printers $500, for subscriptions to their paper.

ORDER OF THE DAY.—Mr. ROMAN's proposition requiring a registration of the votes.

Mr. DOWNS moved that the following words be struck out, "the general Assembly shall provide by law, that the electors having the requisite qualifications, shall have their names enregistered in the parishes in which they respectively reside."

Mr. ROMAN said, that when he submitted to the consideration of the house the section now under advisement, he was, he would acknowledge, under the full belief that if there was a right which it behoved every member of this body to guard, and in the defence of which, all would unite, it was the right of suffrage—or in other words, the ballot box from the pretensions of those who could not approach it without violating its purity. Notwithstanding this, the delegate from Ouachita, (Mr. DOWNS) asked that the words expressing the most efficacious mode, and, in fact the only means left us to secure so desirable a result should be stricken out. And, what are the reasons that he vouchsafes to sustain this demand? None, that he has as yet chose to declare! I hope, (continued Mr. ROMAN) that the Convention will not sanction that motion, but that they will adopt the section as it is.

Should we decide differently, the people will think that we have made no fitting return for their confidence, and will only find in the decision we have taken upon sufferage a momentary and imperfect proceeding, in place of protecting suffrage we have abandoned it to caprices and passions of parties. Each time that a man votes who is not possessed of the qualifications required, it is evident that he destroys the effect of a legal vote, and that the legal vote by this is deprived of the right of suffrage. And, as whatever is true in regard to a single individual, is true in regard to a number of individuals, it results that an entire election may be vitiated by the violations that paralyzed the weight of the legal voters.

Who among us, (continued Mr. Roman) would authorize, I do not say by doctrines, but by his silence, so great an abuse upon the elective franchise? There is on the contrary none that would not put a stop to them. There is, I repeat, but one way of avoiding the recurrence of these disgraceful transactions in our elections, and that is by a registration, in pursuance of the constitution, where the names of electors would figure a sufficient length of time before the election—giving every proper facility to inquire whether each individual aspiring to the privilege of suffrage, has the qualifications required by law, and that on reference to the roll, the commissioner of election would have an unerring guide of the votes they ought to receive.

Let us examine, said Mr. ROMAN, whether the opposition of the delegate from Ouachita, (Mr. DOWNS) is founded upon any serious and valid reasons, and as that gentleman has not seen fit to inform me what are his reasons, I am forced necessarily to infer them. Is it because he thinks we should not embody in our constitution that which is not to be found in the constitutions of any of the States in the Union. I would reply to this, that it is not fair to refute by analogy a measure purely local. There is not a State in the Union whose population is as mixed as ours; there is not a State where there are as many strangers constantly arriving from

every clime—there is not a State where the election laws have been violated to so great an extent; and it therefore becomes necessary to distinguish the electors from those who are not. But, if it be said, that this provision is consecrated in no constitution, it may be replied, that admitting this be so, it is sanctioned by the laws of several of the States; for example, by Pennsylvania and Massachusetts, where it has been in vigor for nearly fifty years, and where it has been found fully to answer the designs of a wise policy. Never are frauds and violations upon the ballot box spoken of, comparable to the frauds and violations in this State. Why not adopt the same means to arrive at the result?

Will it be contended that the measure proposed is applicable only to large cities, and therefore it ought not to find its place in a general constitution? When a measure has been found, not only useful but absolutely necessary, we should not fear to embody it in the fundamental law; we should rather fear to submit it to the legislature which often may be vacillating and undecided. Our legislature has been thirty-two years in existence and has taken no steps—not even the most remote, upon the subject, although it certainly was of sufficient importance to attract attention; and judging of the future by the past, it is indubitable the legislature will do nothing to guard the ballot box, unless constrained by the constitution.

But is it true that this measure is alone necessary in large cities? To respond to this question affirmatively, it would be necessary to deny that there are any frauds committed in the country. It is notorious that ficticious property has been assigned to individuals in order to enable them to vote under the restriction of the old constitution, requiring property qualification, and this property qualification being dispensed with in the new constitution, frauds may be committed in reference to citizenship and to residence. It may be that the frauds to which I have alluded are neither as extensive nor as great as has been represented. I have no intention in alluding to them other than to show by notorious facts that the proposed measure is no less necessary to the country than the city.

It has been assumed that nothing is easier in the country than for the spectators at an election to know who are legal voters, and who are not, and that, therefore, an enrolment of the names of the voters would be troublesome and expensive—and besides unnecessary. I admit, that in some of the parishes this reciprocal knowledge exists, but it might happen that the votes objected to by the minority of the parish might be received by the majority for the purpose of increasing their vote—and that the inspectors might not refuse these votes. As for the expense, that would be a mere trifle—certainly not to be taken in consideration with the importance of preserving the purity of the ballot box! The duty of making this registration might be confided to any suitable public officer—to the assessors for example who in their rounds might take down the names of the legal voters. This task would be easier as the assessors would be well acquainted, from the nature of his duties, with the resident population. A justice of the peace or other magistrate might be invested with the power of examining the list; seeing that it was posted up at the most public places in the parish, and in a word, to carry out all the details required by law. Admitting that for the purpose of having this duty properly performed, it were necessary to expend a certain amount of the public money, which could not but be trifling in amount, would not the public good amply justify it?

I do not think, said Mr. Roman, that it is a fair objection to urge the omissions and errors that sometimes may occur in the assessment roll of taxes. The assessment roll, in the country parishes, is affixed only at the court-house door, but the list of voters might be placed at every public place, and so promulgated as to meet the eye of every citizen; and if, in the case of taxes, it is a matter of little moment whether an individual contributes a little more or a little less to the taxes, it is a matter of greater interest that each qualified voter should secure his right of suffrage, and no voter who valued that privilege would be found delinquent or indifferent. In the first instance the loss is not a matter of much consideration; but the second is of essential consequence, and may affect the political portion of the State, in reference to divergent opinions and conflicting ascendencies. Moreover, the zeal which would animate every citizen to vote himself, not only in favor of his own politi-

cal predilections, but also to secure the votes of those entertaining similar opinions, would secure the enregistration, not only of the legal voters, but many that were not.

I would further remark that in the law, in virtue of which we are assembled, it is provided that the eighth section of the second article be so amended as to fix and determine, in a more specific manner, the qualifications of all persons exercising the right of suffrage. What has been done up to this day, in relation to the first duty assigned us in this section? We have abolished the property qualifications on the one hand, and extended the time of residence on the other. Is this sufficient? I answer emphatically no! It is indispensable to give to the inspectors the means of distinguishing who are the legal voters from those who are not. It is apparent that the only efficacious means is enregistration, yet nevertheless it is opposed. Will the gentleman propose something better? It is evident that the purity of the ballot box should be maintained; I trust there is no difference of opinion, at least, upon this point; and if it is to be maintained what other plan can be so effectual, especially in a densely populated city, thronged with transient persons. How can we pretend that we have discharged our duty, if incurring the former difficulties and aggravating the abuses that heretofore have existed, in extending the circle of suffrage, we do not provide some effectual checks to restrain suffrage to those to whom it has been judged fit to extend it. Can we base our omissions of this duty upon the plea that we have an apprehension of imposing restrictions, and that we should not put the people to the slightest inconvenience? But what is a little inconvenience? or what are a few indispensable restrictions, in comparison with the public safety, and with the respectability and purity of our elective system? We cannot hide from ourselves the fact, that the frauds committed in this State upon that system, have become a bye word of reproach, and that it would indeed be discreditable to our reputation as a member of the federal union, and as a proud and chivalric State; if this Convention be suffered to complete its labors without imposing an effectual barrier against similar recurrences; I hope then the Convention will not hesitate to pass the section I have proposed. I have but one object in view, and that is to protect the rights of every citizen of the State.

Mr. Downs said it was not without powerful, and to his mind conclusive reasons, that he had moved to strike out the principal portion of the section under consideration; and inasmuch as he had been asked to give his reasons, he would briefly submit them.

In the first place, it was a safe rule to establish nothing in this constitution which did not involve an indispensable principle, and he (Mr. Downs) doubted much whether there was any uniformity of opinion as to what a law of registration was. Each one would interpret the meaning according to his own judgment. Each one would give to it the application which he judged to be the most fitting; and we would, in effect, be establishing an indefinite and doubtful registration. But to this, it may be answered, that the legislature will define the power. If the legislature will do this, where is the necessity for incorporating it in the constitution? The legislature will be fully competent, in the exercise of their judgment, not only to decree the principle as effectually as it could be done in the constitution, but also to carry out the details. A change of circumstances may occasion a change of ideas; and it is for the legislature to be governed by the necessities that may exist. Our mission here is to establish the fundamental principles of government; not to decree upon matters of temporary expediency. Moreover, this section, if adopted, would be nothing more than an injunction; and suppose the legislature should not think proper to conform to it, what will enforce obedience to this injunction?

Far be it from me to justify any of the frauds which it has been alleged has been committed, and which, no doubt, have been committed. I abhor them with all my soul; and I should indeed be gratified if a termination could be put to them. I would have them feretted out and exposed to public indignation; and I very much regret that one branch of the legislature that has taken up the subject, should have confined the examination to one particular parish, instead of making it general to every parish where the commission of frauds have been charged. I would not have this investigation confined at all—I would not restrict it

to any particular party, or any particular individuals, but I would make it general and would submit all to the same rigid examination. There are several parishes where these frauds have been committed, and they have been committed to a greater extent in New Orleans.

Mr. Roman: I did not say that frauds had been committed in a particular parish. I said they had been suspected in that parish, and measures had been taken to expose them. This was a matter of public notoriety, and as such I stated it.

Mr. Downs: Be that as it may; I alluded in general terms to the frauds that have been signalized by popular rumor. I consider, I repeat, all such desecrations of the ballot box as a sacrilege committed upon our political institutions; for the corruption of the ballot box necessarily involves the corruption of our institutions, and will taint them until they become one mass of putridity. Those who commit them should be proceeded against with all the rigors of offended and outraged justice. But while I reprehend all frauds, and am solicitous to preclude them, I cannot give my sanction to any measure that will deprive or put to trouble and inconvenience, a large number of legal voters; and the result of which will be, by subtleties and distractions, to give rise to greater frauds than those it was intended to avert. How are our elections, in fact, now managed? Each party have at the polls their challenging committees. In doubtful cases oaths are administered and questions are asked. What can be suggested of greater force than this scrutiny of parties, and the zeal manifested to reject or admit a vote as it may be favorable to the one or the other political party? Should it be abandoned and a preparatory list be relied upon as decisive of the qualifications of the persons seeking to vote? would it be the elector who would have to hunt up the person authorised to enregister the name, or would it be the duty of the latter to draw up the voters in order that their names might be recorded? This cause would have a direct tendency to facilitate frauds, and to establish them on a greater and more extended scale. The officers to be appointed to this particular duty, of taking down the names, no matter what particular officer, would necessarily belong to one or the other of the great contending parties, and would not in every instance be proof against the temptation of placing names not entitled to suffrage, upon the list, and excluding those that were entitled to suffrage, who were known to be opposed to his political party; and as this proceeding would be secret, as far as possible, and the public would not be able to comprehend its extent, the ballot box, instead of being protected by the vigilance of the two parties, and by the spectators present at an election, would be subject to the entire control of one or two officers. Would that be wise or politic?

Mr. C. M. Conrad hoped that the Convention would not adopt the proposition of the delegate from Ouchita, (Mr. Downs.) It was a matter beyond dispute that frauds have been committed upon our elections to a great extent, and the delegate from Ouachita, (Mr. Downs) mis-aprehended the delegate from St, James, (Mr. Roman,) when he supposed these frauds were confined to a solitary parish. Frauds have been committed to a greater or less extent all over the State. Their extent and their degrees of enormity have varied with the local position of the different parishes, and with circumstances. They have scarcely been observable in places where the population was small, and they have been multiplied and carried out in all their ramifications where the population was numerous. Accordingly, they have been most rife in the city, where the opportunities and the material was found to exist in a greater degree. I do not wish to reflect upon the city, which I have the honor, in part, of representing; but it is to show that I am impartial in reference to all evasions of our electoral laws; and because it is necessary to admit the evil, in order to insist upon the remedy.

In the first ward of the first Municipality, at the last election, a much greater number of votes were received than were dreamed of; some two hundred or three hundred more. My colleague, (Mr. Benjamin,) also a resident of the same ward, thinks that the number of illegal votes was not as great as I have stated, but I do not think I have over estimated them. By whom were these votes created? It is fair to infer, by one or both of the political parties. I do not except either; and far be it from me to attach greater blame to the democratic party than to the whig party. I

believe both are culpable; and it is useless and worse than useless to criminate and re-criminate. Every well thinking man should be impressed with the necessity of arresting these evils—as none can deny their existence. Many of those that cast their suffrages at the last election could not now be found by all the vigilance of the police. They have dissappeared from the city; some are in Europe; some in the western States, and some in the eastern States: in Canada, in Texas, and every where else. They never were residents of our city; merely temporary sojourners. It was very difficult to prevent illegal votes from being cast, under our laws. Some would escape the vigilance of challenging committees, and would be received. The individuals themselves, in some instances, were not aware of their total want of capacity to vote, and would approach the ballot box under the full conviction that they were entitled to suffrage, when in point of fact they were not. Mr. Conrad instanced some examples within his knowledge. The abuse of suffrage was certainly one of the greatest evils that threatened the durability of a representative system of government. The political power of the State should be confined to those to whom that power was assigned, for good and valid reasons. It ought to be restricted to those having a permanent interest in our institutions, be it a pecuniary interest, the love of country, or attachments to the peculiar institutions of the State. A man who steals a loaf of bread to gratify the cravings of hunger, or a coat to cover himself, is punished with the greatest rigor of the law; but a man who steals the important right of suffrage—for it is a theft for a man to vote, knowing that he has no right to vote—escapes without punishment, for the fine is seldom, if ever, inflicted; and yet I hold, said Mr. Conrad, the purloining of the privilege of suffrage to be one of the greatest offences that can be perpetrated upon our institutions. It directly affects their stability, and brings our system of government into reproach. Every invasion of the right of suffrage, is a crime that every well thinking man should stigmatise and desire to see punished effectually. I should rather see a purloiner of the right of suffrage sent to the penitentiary, than a poor miserable devil who had committed a common petty larceny.

But if punishments are not to be inflicted or enforced for violations of the elective franchise, let us at least attempt to preclude the recurrence of these outrages. The necessity for some efficacious remedy is apparent. What remedy shall we apply? I know of none that would be as effectual as the propositition of the delegate from St. James (Mr. Roman) and I therefore give it my hearty concurrence.

The gentleman from Ouachita (Mr. Downs) has complained that some investigation into the frauds that have been committed is not sufficiently general; that it is restricted to one particular parish. For the sake of consistency these examinations should not be partial; but after all, I very much doubt their efficacy. These are something like an *expost mortem* examination. They may call our attention to the particular malady that afflicts the body politic, but for any other purpose they are perfectly useless. And even in this they fail to leave any practical effect. They arouse and embitter political animosities, and keep up political excitement. I repeat, they are worse than useless. It is evident from the experience of the past that some safe-guard is needed for the protection of suffrage. Let us not debate, or waste our time in alledged frauds; we know the allegations to be true, that frauds are committed, and we should devise some effectual check in our organic laws. It seems to me that this subject is worthy of all our attention, and all our solicitude; there is no mode so effectual of publicity as the registration of the votes, and it will supply to the inspectors of election a similar guide as the assessment roll—they will be deprived of that guide, and we should substitute something in its place.

But says the delegate from Ouachita (Mr. Downs) the section does not define in terms sufficiently explicit the mode of enrollment. This is not the object of the section. It is not designed to confuse and embarrass the details. These will properly be an object of legislative consideration. There is no penalty prescribed for omitting to act upon the registration, and the legislature, says that gentleman, may do as they please. So may they do in reference to several other principles adopted in this constitution. In the first place, it is not presumable that they will neglect to carry out the principles of

the constitution—principles which they are sworn to observe and to execute. But, whether they violate their duty and their oath or not, it cannot be urged as an objection to our perfecting the work assigned us. I repeat, it is not likely they will refuse to carry out the provisions of the constitution, but if they do, that will be a matter between them and their constituents. We shall have discharged our duty upon a very essential and vital subject. As for the penalty consequent upon refusing or neglecting to be placed upon the enrollment, it is embodied in the section itself, which prescribes that no one shall be considered a duly qualified voter unless his name appear upon the register. This will be the most effectual way to carry out the law that the legislature may make into complete execution. The omission of this penalty has been severely felt in other States of the Union, that have adopted a similar plan, and experience has suggested to the delegate from St. James to supply the omission.

As for what the delegate from Ouachita (Mr. Downs) has told us, that this enrollment of the qualified voters will be but a secret system, subject to great abuses, it is evident that the member has consulted rather his imagination than his judgment. How can he suppose that the law will not be so framed as to guard against all partialities. Moreover, it will not be contemplated to give to the officer any control. Any person may have his name placed upon the list, but the list will be subjected to the inspection of all the citizens, and if any name be found thereon subject to doubt as to the qualification, some judicial officer will be charged to investigate the grounds of opposition and to pronounce upon it after hearing the party and his testimony. The ridicule consequent upon the publicity of the proceedings will deter those having no right to vote, from causing their names to be placed upon the register; and thus the register will be found to contain few, if any names, to which objection may reasonably be made.

The delegate from Ouachita has referred to another objection. He apprehends that the electoral franchise will be compromitted by other proceedings; I consider the right of suffrage to be much more endangered by the existing system. How many persons have voted in our elections that had no right to vote, while in the tumult and confusion that have reigned about the polls, a multitude of legal electors have been excluded from their right of suffrage.

The necessity for enrollment has been compared, with a view of making it odious, to a passport. I do not consider that there is any thing degrading in being registered as an American citizen, fully entitled to participate in all rights appertaining thereto. A list of the electors is a list of the citizens of the State, in which any one might be proud to find his name. If it be objected that the enrollment in the country is unnecessary, and that can be sustained, I have no objection to restrict the operations of the measure to incorporated towns. The indolent, the vicious, the floating population, do not repair to the country. There is no way for them to get along there. But they congregate in our large towns, principally in the limits of New Orleans, where they lead a precarious existence and are willing to sell themselves to the highest bidder. To relieve the city of New Orleans from the influence of such persons, if it be deemed not essential to provide a registration law in the country, I do think that the section under consideration is most material, and I am solicitous to secure its advantages for the city.

Mr. Ratliff considered that the proposition as it related to the country, was entirely unnecessary. The inhabitants in each electoral precinct knew each other, and would not suffer strangers to vote among them. He was not prepared to say that it was not necessary for the city of New Orleans. But to cover the whole subject, he would propose a substitute to the following effect, "that laws be passed to define explicitly the rights of citizens entitled to suffrage under the present constitution."

Mr. Brent said, he could vote neither for the proposition of the gentleman from St. James, (Mr. Roman) nor for the substitute of the gentleman from Feliciana, (Mr. Ratliff.) I cannot consent that the legislature shall have the power of controlling the elective franchise, which being the constituent principle of the popular sovereignty, should not depend upon the legislation of a body that is subjected to the influence of the ephemeral successes of party. It is the constitution itself that should define all that

appertains to the exercise of suffrage, and who should enjoy that right; and when once it is defined, it should not be in the power of the legislature to contract it, or to throw obstacles in the way of its free and uninterrupted exercise. There is no necessity for conferring authority upon the legislature to adopt this inconvenient system of enrollment, and the only motive which I can conceive for pressing it so earnestly upon the Convention, is that it may be the pretext for restricting the right of suffrage and defeating one of the most important measures that we were called upon to consummate.

The decision upon another odious restriction, yesterday, affecting this very same right of suffrage, convinces me that any proposition to contract suffrage, and to fetter its free exercise, will meet with a favorable reception in this body. I say this with pain and mortification, and I may add, that great as the triumph of the people in the final achievement of the measure of calling a Convention was, their disappointment will be as great to find that their earnest expectations of adequate reforms will not be realized through this body. Those who have been chosen to carry out the popular will in some instances appear to have forgotten their mission, and to have united with the smaller number of restrictionists in controlling the action of this body; it is in this way, that the objects for which the Convention were called are to be defeated, or if partially accomplished, to be saddled with so many exclusions and conditions as to make the result of little or no benefit to the people. We have so far made but little progress in the great work assigned to us, and yet we find fetters and restrictions in all that we have done. To such an extent has this unfortunate spirit been carried, that it has become almost a matter of indifference with those that have opposed it from the beginning, whether it be continued on to the end—that restriction be piled upon restriction until there be but one general system of restriction, which when submitted will be indignantly repudiated by the people, and be consigned to everlasting reproach.

Upon every occasion when the popular prerogatives have been involved, we have been told of the abuses of suffrage and the frauds that have been committed upon the ballot box, as if we were not fully instructed as to the existence of these frauds and the causes of these frauds. No one can abhor violations of the right of suffrage more than I. But it may well be questioned how far the existing restrictions have not contributed towards these frauds, and the irregularities that have occurred; and if they have had that effect, what are we to expect from more tyrannical restrictions of the elective franchise? Assuredly, this measure of emolument will not preclude frauds. On the contrary, it will hazard the right of the legal voter to suffrage, and will promote fraud rather than prevent it. Wherever a similar plan has been tried it has been found necessary to repeal it; it has germinated the most stupendous frauds. It is very easy to perceive the license it gives to illegal voting; the list of names is omnipotent; the inspectors of elections are but mere automatons, as far as they possess the right of interrogating and discovering whether the person offering to vote is a legal voter; they are pointed to the list—if the name be there he votes, if it be not there he cannot vote, although he can prove on the spot that he is a legal voter. Whether the name be there or not depends upon one, two or three individuals; they may refuse to put down the name of a legal voter, and put down the names of a hundred illegal voters—to subserve some party object. These few individuals are constituted into a star chamber, an inquisition, whose powers are unbounded over the right of suffrage.

I do not know what particular mode will be devised to call up the voters to get their names placed upon this oracular list. In the city of New Orleans it may be by the beat of the drum; but in the country, in those parishes where the population is sparse, and plantations are distant from each other from five to ten miles, and from the court house fifty or sixty miles, it will be difficult, if not impossible, for the inhabitants generally, to conform to this arbitrary rule; and yet if their names are not on the list, they are to be deprived of their right of suffrage, the fundamental right of every American citizen, and one which it never should be in the power of any one to control or preclude.

Mr. Claiborne said, he certainly would never sanction any principle that would deprive a legal voter of his right of suffrage. If the proposition would have that effect in

his conception, he never would sustain it. He was not prepared to say that it would not be attended with some inconvenience in the country. Of this, gentlemen from the country were the most competent judges, and he was ready to accede to their wishes in that respect. But for the city, he considered this measure indispensable, and that it could not be attended with any inconvenience worth mentioning. Unless it were adopted, each municipality electing separately its representation to the legislature and its local officers, it would be very easy for persons to pass over from one municipality to the other, and vote in the municipalities in which they did not reside. A regular system of what was called "colonization," could be carried on by political parties. The only way to prevent this was by a list of all the legal voters—excluding no one that was a legal voter, but enabling the inspectors to decide who were actual residents and legal voters. His object went no further than to prevent evasions and frauds, and to secure suffrage to those really entitled to it.

As for the objection, that it is degrading for an American citizen to have his name enrolled upon this list, I think it, (said Mr. Claiborne,) frivolous. We have our names called over by the secretary every morning as members of this Convention, and no one thinks that degrading. So far from there being any degradation in being enrolled as an American citizen, I think it an honor, of which any man might well be proud.

Mr. Mayo said, Mr. President—I am willing to go as far as any member of the Convention to sustain any measure to prevent frauds at elections. But I do not think that the provision of the section which it is now proposed to strike out, will have a tendency to effect that object; on the contrary, I think its tendency will be to multiply them.

Those parts of the constitution that relate to the elective franchise will have to be construed by commissioners of elections who are seldom lawyers, but who, on the contrary, are men not in the habit of construing constitutional law. Hence it is necessary to make all laws upon that subject as plain and intelligible as possible. The more we multiply constitutional and other provisions upon the subject, the more doubts and uncertainties will arise in their interpretation; and the provision now under consideration is peculiarly calculated to produce that result. Let us examine its provisions. It provides that a "registration shall be made at least three months before every general election of all the qualified voters of the State in the several parishes in which they actually reside."

By the 8th section, which we have adopted, it is provided that a residence of two years in the State and one year in the parish, shall entitle a person to vote. I supposed, sir, that that section settled the time that was to be required of a voter; but this, (probably without intending it) will require an additional residence of three months in the parish and State, in all cases where its *apparent* intention cannot be evaded. The registry must be made three months before every general election, and by the last clause of the section presented, it is provided that "no person shall be entitled to vote" "except his name shall have been recorded in the last registry." Now, sir, it is apparent that as the voter's name cannot be registered until he has resided two years in the State and twelve months in the parish in which he offers to vote, and the registry must be made three months before every general election, that three month's residence will be required by virtue of the registration law, in addition to the two years in the State and one year in the parish, which is required before the registry is made. There is in this a plain and palpable conflict between the two sections. Commissioners of elections cannot be expected to make uniform decisions upon these conflicting provisions. One set of commissioners will decide, that section 8th as adopted, being unequivocal and plain, will entitle a person to vote, who at the time of offering his vote, has resided two years in the State, and one year in the parish. Another set of commissioners will decide that the name of the person offering to vote must appear on the registry, and that the residence required must have expired at least three months before the election, as required by the registry clause. There can be no doubt in my mind but that the section now offered will require a residence of twenty-seven months in the State and fifteen months in the parish, instead of the time required by the 8th section; or it

will extend a right to vote to all persons, whose names may be registered, though they may have removed from the State since the registry of their names. But will the registry clause have a tendency to prevent frauds? It appears to me that it will not; but that, on the contrary, it will open a door to very numerous frauds. All persons whose names will be found on the last registry will claim a right to vote, notwithstanding they may have removed out of the State permanently before the election; and this right unintentionally, I suppose, appears to be granted by the registry clause. This certainly opens a door to fraud; so far as it would be construed to permit a person to vote after removing from the State. Another objection, sir, to this provision has struck me as being peculiarly entitled to consideration. It is that it is calculated to confer power upon the political party that may have the ascendancy in the legislature when the registry law may be made. It cannot be denied, that the legislature is always composed of different political parties; such has always been the case, and probably always will be; and each of those parties is always striving to perpetuate its power. The registry law if made will be made by the party in the legislature that may at the time of making it, be in the ascendancy. The appointment of registers will be made from the party who at the time may be in power. The registers will be party men. The duration of their offices will depend upon the will of a party---and they will probably be appointed to hold their offices, as coroners now do, during the pleasure of the appointing power, whether it be the legislature or the governor. They will be located in districts to suit the convenience of the friends of the party appointing them. All the means to effect the registry will be party means; it will all be moved by party machinery, and the ends to be obtained wil lbe party ends. And, sir, I think we may safely predict a wo to the party that may be in the minority in the legislature at the time of making the registry law. In addition to this, sir, it will be extremely inconvenient to voters in the country to get their names registered. The office of the register will necessarily be remote from many of the citizens, and they must all, previous to every general election, leave their work and business and travel some 10, 20 or 40 miles to the register's office to have their names registered. They get there and find that the register is absent. They must return home without accomplishing their object. To return a second time for the purpose will be more than they desire to do, and more than they probably will do, and their right to vote will be lost. Men will have a repugnance at having to acquire a right to vote at such a price, and the business part of them, at least, instead of spending the time and going to the trouble that will be necessary to entitle them to exercise the right, will stay at home and attend to their business. It was suggested by the honorable member from St. James, (Mr. Roman,) who has no doubt passed in review a favorite mode of registry: that the register could sit in his office and in a few hours make up a registry of the voters in his district. This, he no doubt could do, but it must be remembered, that this register is likely to be a party man; if so, he will be more likely to think of the names of those in his district who he thinks will vote with his party, than of those who will vote against it. This is natural, and arises from the frailty of the nature of man. In politics men desire to think their party right. This induces a belief and they believe accordingly. If any were left off from the list that ought to be upon it, it would be likely to be those who would vote against the party to which the register belonged. If any were put on the list that ought not to be on it, it is reasonable to suppose that the greatest number of such would be the friends of the political party of the register. It was further suggested, that after the register had completed his list, he could have it examined by a justice of the peace, or other officer, which would be a sufficient guaranty of its accuracy. I do not think this would be very effectual. Officers are not fond of criticising the acts of each other, and the registry would be more likely to be approved, as a matter of course, than to be critically examined and corrected.

In conclusion, sir, I will remark, that we have already removed the cause of a large portion of the frauds at elections, by removing the property qualifications, and I do not think the present provision calculated to remove the cause of others, *but* to increase them.

Mr. C. M. Conrad thought the apprehensions of the member from Catahoula, (Mr. Mayo) chimerical. Every person asking to be enregistered would be enregistered; he might even send his name. The enregistration would be *pro forma*. But whether the name enregistered should remain, would depend upon the fact whether it was that of a qualified voter. The list of all the names would be exposed to public inspection, and if there were any about whom there was any doubt a proper legal investigation would be had before some magistrate appointed for that particular purpose, and the evidence would be heard for and against, and upon that evidence would the decision be made. The enregistration could not not be prostituted to any party purpose. Its only object would be to protect the ballot box; to secure suffrage to those entitled to it, and to preclude persons not entitled to it, from voting.

Whether this particular proposition to register the names of the qualified voters was feasible in some of the parishes without great inconvenience, he (Mr. Conrad) did not pretend to determine. It might very well be obnoxious to the objections that have been urged by some of the delegates. But he was convinced of its expediency and its usefulness in the city of New Orleans, and that it could be carried into execution with but little trouble and without detriment to the right of suffrage.

The gentleman from Catahoula had alluded to some conflict between this section and the 8th section of the 2d article, which had been adopted. If this conflict actually existed after adopting the present section, it would be in the power of the Convention to reconsider the 8th section, and make both conform.

Mr. Ratliff announced that he would withdraw his proposition for the present, and took occasion to repeat his objections to the section offered by the delegate from St. James, (Mr. Roman.)

Mr. Miles Taylor argued that this proposition to register the names of the voters would have no beneficial effect, while it might be a source of some trouble and inconvenience. He thought it unnecessary, because the frauds which it was assumed it would prevent, were already precluded. In fact what gave rise to these frauds? It was first the requisition in the old constitution that property was essential to suffrage. We have done away with this property qualification, and in lieu of it we require a longer residence; and by the adoption of the proposition yesterday, we prevent the effects of any frauds upon the naturalization laws by requiring two years' citizenship. We have thus struck at the root of the evil. The frauds employed to evade the constitutional provision of taxable property to secure suffrage will no longer be made, because suffrage does not depend upon property—therefore we effectually put a stop to them. We have provided for residence, and finally arrested the next most prolific source of fraud, naturalizations made with a view to operate upon the result of immediate elections; for such naturalizations will no longer be of any service to political parties. The only remaining matter which may be an object of evasion is residence; we have required two year's residence for suffrage, but this may be avoided, and persons may vote before they have acquired that residence. I think that if we strike out from the section the requisition upon the legislature for a registry law, and retain that part which requires that persons shall offer their votes in the parishes in which they reside, and no where else; and in cities in the particular wards of their residence; by multiplying electoral precincts, we shall have done all that it is possible for us to do to accomplish the design of guarding the ballot box. The people themselves at the several election precincts, will be able to prevent non-residents from voting, and this will be found much more effectual in fulfilling the essential of residence than a registry of the votes proposed by three or four persons, who may abuse their power, and debase it to party purposes.

Mr. Downs said, that the only effect of a registry law in Louisiana would be a repetition at our elections of the same frauds which occurred in New York and Philadelphia under the regime of a similar law. The clubs and political associations of both parties in the three months preceeding our elections would be sedulously engaged in getting names of persons upon the list upon whose votes they could rely; and when the list was finally made out, a regular system of intrigue and corruption might be employed to influence and control the votes of a majority upon the list.

Secret agents might be sent out to tamper with the voters, to coerce some and to seduce others. Our elections would become objects of corruption, and in place of fraud being repressed, it would be strengthened and placed in a commanding position, with absolute sway over the decrees of the ballot box.

Mr. Claiborne suggested that it might be better to lay the section on the table, in order to reflect further upon the subject, and so to amend it, to make it unexceptionable in its operation if it were really defective.

Mr. Grymes said he was opposed to postponing action upon the section, because in this way we would be accumulating our duties instead of getting through with them. This question was not over difficult of solution, and surely the long debate to which it had given rise was not at all necessary to elucidate its merits or point out its defects.

I consider, said Mr. Grymes, that a registry law should not be embodied in the constitution, and this not because I conceive it to be a restriction upon the popular will, which certain persons would so enlarge as to make any practicable system of government utterly impossible; but because it is unnecessary, it is unsuited to the country and useless in the city, and is, moreover, nothing more than a simple matter of legislation, as much within the competency of the legislature without a constitutional provision, as if there were a thousand constitutional provisions.

It is a maxim of jurisprudence, that the innocent should not suffer because it is necessary to punish the guilty. This maxim is equally applicable to legislation. Under the pretext of punishing the fraudulent—those not entitled to suffrage, a thousand freemen and laboring men would be precluded their right of suffrage. So whose benefit would this provision enure? Who would be the first to enregister their names? Partizans, indolent persons—persons who expected to sell their votes, and all others of a similar class; while the farmer, and the hard-working artizan would either forget or neglect through the press of his occupation to present himself in time, and would suffer the penalty of exclusion. This ought not to be. It cannot be done without great injustice. And, moreover, what is the essential difference between three inspectors of election to decide upon the qualifications of persons offering to vote, and three persons authorized to receive and register the names of the voters? Does it not amount, practically, to the same thing, as far as the prevention of frauds is concerned? Is it to be supposed that the latter would be a greater check than the former? I do not believe it. There will always be persons ready to corrupt at elections, and frauds will more or less be employed to effect the result. The only thing that can be done is to determine with precision the qualifications necessary to suffrage, and to make these qualifications conform to the exigencies of our position.

I certainly cannot vote for a principle that would operate with great severity upon a numerous class of legal voters, because I may be told it will prevent illegal voting, which I do not think it will affect.

Mr. C. M. Conrad proposed to strike out the words "in the several parishes in which they may reside," and to substitute the following, "residing in cities and villages that are incorporated or may be incorporated."

Mr. Benjamin expressed himself in favor of the section as it was presented. Experience has demonstrated the necessity for a registry law, and another striking consideration why such a measure is indispensable, and which has not been urged in this debate, is that the Convention has sanctioned the principle that elections in this State shall be concluded in one day. How will it be possible in this city, divided even as it is into wards, to receive all the votes, if contests arise and have to be decided in the uusual way before the inspectors? It will be out of the question; and it will be in the power of a minority, at will, to prevent the result of an election, or to prejudice it. Many citizens will be precluded from voting; every voter who is a member of the party that may be supposed to be in the ascendancy may be challenged as to his right of voting by members of the opposite party, and every device may be employed to procrastinate and defeat the reception of particular kinds of votes. It is because I fear this result, said Mr. Benjamin, and because I think with the senatorial delegate from New Orleans, (Mr. Grymes) that the right of an American citizen to suffrage ought not to be compromitted, that I am in favor of

the section. Without intending to accuse one political party or justify the other, I would invoke the voice of public notoriety, whether it is not a matter of constant occurrence at our elections, that there are continual contests as to the right of suffrage. Why, in the very contested elections that occupied the attention of this Convention at Jackson, between my colleague (Mr. Conrad) and myself on the one part, and Messrs. La Sere and Plauché on the other; the principal grounds of complaint of both parties were the frauds that were committed. Our combatants declared that legal voters had been refused their right of suffrage at the polls. We declared that our political friends, in many instances had been denied the privilege of suffrage, although entitled to it, because certain illegal ballots were refused. The inspectors of both political parties reciprocally accused each other of being the cause of these difficulties, and of the election not having been legally held. Similar difficulties will occur again and to a greater extent with enlarged suffrage. It may happen that one political party may keep from voting a large portion of the other political party. This will give rise to tumult and disorder; perhaps even blood shed. Such results certainly ought to be avoided, and how can they be better avoided than by a list that will be conclusive of the right of each voter. It will facilitate voting and take from the inspectors the unfortunate duty, in a moment of the greatest political excitement, of deciding upon the reception of a ballot, that may decide the contest in favor of the one or the other political party. Constitutional points, and cases where the construction of the law itself is doubtful, may arise unexpectedly before the inspectors, and they be called upon suddenly for a decision. These inspectors are seldom chosen from the legal profession and are not conversant with the interpretations of laws. What is the consequence? Each inspector belongs to a political party, and is frequently selected because he is prominent in that party. Each inspector is stimulated by the excitement that prevails, and which has prevailed for several weeks before the election. The point of difficulty is raised, and there is a party lawyer on each side counselling each an inspector. Books are brought in; arguments are made, and the election is suspended in the mean time. The result is that the inspectors disagree as widely as their counsel, and their respective determinations take a party hue.

I remember at the last election a difficulty that was sprung, all at once, upon a number of voters. They were denied the right of suffrage because it was pretended they had lost their legal residence by a visit to the north or across the lake. At first the point was disputed—the law was referred to, and contrary constructions were given to it. The inspectors were bewildered, and as a last resort application was made to the parish judge, whose duty, it was said, was to decide the point. An express was sent to that officer, and he returned an enigmatical response. The voters, exasperated by the attempt to exclude them, deposited their ballots by force. God forbid that I should justify any violence—I do not pretend to say that it was proper—but I mention the occurrance to show the necessity of adopting some suitable measure to establish the right of the voters, independent of the inspectors, and before the very moment when they are about to offer their ballots. I knew of no plan as effectual as a registry. It is exposed for some months before the election to the public inspection, and all that may be urged against the right of any person to vote, can be preferred and determined upon. It is finally homologated or confirmed by a competent authority, and and as soon as a person presents himself, claiming the right to vote, reference can be had to the list, arranged alphibetically. If his name is there—he votes—it is a proof that he is a legal voter, and is conclusive. If his name is not there it is equally conclusive that he is not a legal voter—for if he was a legal voter either he or his friends would have his name placed on the list. As for the trouble, if that be an argument, the same argument would apply to the trouble of voting. To vote may be considered troublesome, but it is a duty; so would it be a duty to have one's name registered and if a man placed any value upon the right of suffrage, he would not consider the one a more unnecessary duty or a greater trouble than the other.

There is certainly nothing degrading in the idea of being registered as an American citizen. If a Roman citizen was

proud of his title of citizenship, I can see no reason why an American citizen should be ashamed of being recorded and recognized in the capacity of a citizen.

Mr. Downs would ask the member, (Mr. Benjamin,) if it were proper that the constitution should be made to suit future legislation, or whether future legislation should be required to conform to the constitution? for all the argument of the member, (Mr. Benjamin,) resolved itself into this: shall we insert a special act of mere legislation in our constitution, because the particular mode of conducting the elections in New Orleans are attendant with difficulties, and do not conform to the wishes of either, or both of the political parties. If the election laws in the city be defective, whose fault is it that they are not amended, changed or modified? The legislature have full power over the subject; and if I am not much mistaken, when a proposition was made, during the last session of the legislature, to correct the defects of those laws, and to appoint three inspectors in place two, which was the only radical source of difficulty, the gentleman, (Mr. Benjamin,) opposed it. How can we be asked to embody in the constitution a matter that does not properly belong to it—which is impotent for good, and powerful for evil? If the election laws of the city must needs be amended—if this be conceded at last, why not apply to the legislature? As for the particular system of registration, we have had an example of that already; in a list of 1300 names, to whom the right of voting was attempted to be given by ficticious property, to vote the whig ticket. Let your election in the city be conducted as they are in the country, and no apprehension need be entertained of difficulties, riots, and the shedding of blood.

Mr. C. M. Conrad thought the gentleman from Ouachita, (Mr. Downs,) over estimated the beneficial effects of appointing three inspectors of election in the city in place of two. The evil did not arise from there being but two judges of election. The presence of an additional judge could not have precluded the difficulties that have occurred, and which will occur again, unless something be done to ascertain before the election who are the qualified voters. Where so many votes are to be cast, this knowledge is indispensable. It is too late and will not answer to dispute the matter at the polls, amid all the heat and excitement of a political contest. He disclaimed again the intention of imposing upon the country any inconvenience that might result from a principle essential to the city. He thought the interests of both could be reconciled, as their object was the same in this matter, to protect the ballot box from frauds.

He would offer the following as a substitute for that portion of the section which the delegate from Ouachita had moved to strike out. It had been handed him by a delegate from one of the country parishes:

"The general assembly shall provide by law that a register of the names of all the qualified voters residing in towns and villages whose white population exceed one thousand, shall be made out within three months preceeding any general election."

Mr. Sellers proposed a substitute to the effect, that citizenship should only be acquired by actual residence within a certain period in the parish; to be counted from the date of a declaration of intention made and recorded in any court of record.

Mr. Scott, of Baton Rouge, called for the previous question which was sustained and the question was taken by ayes and nays, upon Mr. Downs motion to strike out, which resulted as follows:

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfied, Burton, Cade, Carriere, Cénas, Chambliss, Covillion, Culbertson, Derbes, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Scott of Baton Rouge, Scott ot Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Voorhies, Waddill and Wederstrandt voted in the affirmative—44 ayes; and

Messrs. Aubert, Briant Claiborne, Conrad of New Orleans, Conrad of Jefferson, Garcia, Guion, Hudspeth, King, Labauve, Leonard, Lewis, Mazureau, Pugh, Ratliff, Roman, Roselius, St. Amand, Wadsworth, Wikoff and Winchester, voted in the negative—21 nays; the motion was carried.

On motion the Convention adjourned till to-morrow at 11 o'clock, A. M.

SATURDAY, February 8, 1845.

The Convention met pursuant to adjournment.

Mr. SAUNDERS in the chair.

Its proceedings were opened with prayer from the Rev. Mr. CLARK.

Mr. RATLIFF, on behalf of the committee on contingent expenses, submitted the accounts of the Jeffersonian Republican, and Courier for $500, the amount due each for subscription.

Said accounts were referred.

Mr. RATLIFF, on behalf of the same committee, submitted the claim of J. A. Kelly, late printer to the Convention, amounting to $1,474 00. Mr. R. stated that the committee had examined Mr. Kelly's claim and had unanimously reported in favor of that amount.

Mr. BRENT moved to lay the resolution on the table, in order that the members of the Convention might make some investigation.

Mr. RATLIFF opposed this motion. The facts were before the Convention, and they could decide as well now as at any other time. Besides, it was not fair to keep Mr. Kelly here on expenses. If we owe him this money, let us pay him; if it be less, let us pay him the amount really due. At considerable expense and trouble, he came here to fulfiill his contract; we have seen fit to supersede him, let us settle with him—and that without unnecessary procrastination and delay.

Mr. LEWIS had no objections to paying Mr. Kelly, provided there was some guarantee that he would deliver the book containing the report of the debates and journals. As for that pamphlet, he had not seen a copy of it yet.

Mr. MILES TAYLOR spoke in favor of allowing the amount, inasmuch as from the report of the committee it appeared to be due; and he had understood that the book was in the hands of a respectable binder to be bound.

Mr. BENJAMIN stated that he had examined Mr. Kelly's claim, and after making certain reductions, he had united with the committee in their report. The book containing the report of debates and the journals, were in the hands of a respectable book binder, and would be forthcoming as soon as the binding was completed.

Mr. BRENT had no doubt that the committee had fully examined the subject and were convinced that it was due. He thought, however, that the members of the Convention should have some time to examine for themselves.

After some further remarks from Messrs. Mayo, Roselius, Culbertson and Ratliff, and an assurance on the part of Mr. Ratliff that the committee would not audit the claim until they were satisfied that the book would be forthcoming as soon as bound; and after reading the certificate of Mr. Bloomfield, the binder, the question was taken to lay on the table, and it was lost.

The question then recurred on the adoption of the report of the committee, allowing the amount reported by them.

The yeas and nays were called for, and the following was the result:

Yeas—Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cade, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Guion, Hudspeth, Humble, Ledoux, Legendre, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, King, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, Scott of Feliciana, Scott of Baton Rouge, Sellers, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—54.

Nays—Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Hynson, Peets, Penn and Porche—9.

ORDER OF THE DAY.

The section proposed by Mr. ROMAN relative to a registry law, under discussion when Convention adjourned yesterday.

Mr. CADE moved to strike out the ballance of the section from the word "residence."

Mr. ROMAN moved to insert after the words "shall not have the right to vote," the words "at any election whatever."

Mr. C. M. CONRAD opposed the motion of the delegate from Lafayette (Mr. Cade) to strike out that part requiring the voter to vote in his election precinct. Mr. Conrad said that this requisition was necessary to facilitate the reception of the votes and to prevent frauds. He proposed to amend the sentence by adding after the words "in the parish," the words "and in cities and towns,

in the several wards in which they may be divided."

Mr. PRESTON said he rose for the purpose of moving that the 2d clause of the section be stricken out, as the first had been. The Convention, he would again remark, had met but for three things—First, to extend the right of suffrage. Secondly, to apportion more equally the representation of the State. Thirdly and lastly, to reform the judiciary. He did not believe this body were assembled for any other purpose. It was not surely assembled to fall into minute legislation; to exhaust the patience of the people, and our own patience, and finally end by doing nothing. These ordinary matters were proper subjects for the legislature. Can we not place confidence enough in the legislature to leave it to them. The legislature, by the old constitution, has the power to regulate elections. Oh! but it is said, the legislature will not act. If the legislature does not act, it is because action further than has been had is not necessary. If any particular parish wants a particular modification it can get that modification of the election laws. It happened, if he were not misinformed, and if he were he could be corrected, that a portion of the inhabitants of the parish of Livingston voted in the parish of Ascension. Why waste our time with this ordinary legislation. He hoped the new constitution might not last ten years, and conceiving this matter to be purely legislative, was adverse to placing it in that instrument. A great deal had been said by one gentleman (Mr. Conrad) yesterday about the criminality of voting without having the legal qualifications, and that any one so offending should be sent to the penitentiary. I cannot consider it (said Mr. Preston) a penitentiary offence for an American citizen to attempt to get his right of suffrage. I would as soon think of prosecuting Promotheus for stealing fire as I would think of punishing a man for attempting to exercise a right which is implanted in the human soul. I approve of every word in the section, and yet I shall oppose it, because I think it a simple matter of legislation; but if it be pressed I shall vote for it, although it should not be introduced in the constitution.

Mr. C. M. CONRAD said that the gentleman from Jefferson (Mr. Preston) had a strange way of testifying his approbation of the section. He approves of it and yet is ready to strangle it. The gentleman (Mr. Preston) thinks this is a small subject. I think it is one of the very greatest importance. It relates to our social organization, and therefore must be of the highest magnitude.

Mr. MILES TAYLOR said that the subject under consideration had taken a wide range. He differed from some of the views taken upon this question by the delegate from Jefferson, (Mr. Preston.) He considered that it was not only proper and just to establish the principle in the constitution, but that it was a principle proper to that instrument. The division between parishes was one thing, and the boundaries of an election precinct another. An election precinct might embrace a portion of two parishes, but the delegate from Jefferson appeared to confound the territorial divisions with the election precincts.

Mr. RATLIFF presented the substitute which he had temporarily withdrawn yesterday.

A question of order was here raised by Mr. C. M. Conrad. He contended that this substitute was not in order, inasmuch as it was not on the same subject matter as the original section; which gave rise to a discussion upon the point of order, in which Messrs. Downs, Ratliff, Voorhies, Miles Taylor, and C. M. Conrad participated.

Mr. PRESTON said that he had remarked at the moment, that he approved of every word in the section, but after reflection, and a circumstance occurring to his mind, which he would suggest to the Convention, convinced him that his first impression was wrong. The section would operate to the exclusion of a portion of his constituents residing at a remote precinct—the *Cheniere Cominada*. They were fishermen for the most part, and raised water-melons. They were in New Orleans in the month of July, and it was impossible for them to vote at their precinct. They were as well known in the city of Lafayette as the mayor; but under this section their votes could no longer be received elsewhere in the parish than at the precinct of the Cheniere Cominada. He thought it a pernicious restriction, and it would be attended with great inconvenience to the voters.

The question was taken on Mr. CADE's motion, and it prevailed—yeas 36; nays 25.

The question then recurred on Mr. CONRAD's amendment, as amended by Mr. Roman.

Mr. READ opposed the amendment.

Mr. CLAIBORNE sustained it as necessary and proper.

Mr. PORTER thought that the 5th section of the 2d article accomplished the views of the advocates of this proposition.

The question was taken upon Mr. CONRAD's amendment, and the yeas and nays were called for.

Yeas—Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Cade, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Eustis, Garcia, Guion, Hudspeth, King, Legendre, Leonard, Lewis, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, Scott of Feliciana, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder—36.

Nays—Messrs. Brazeale, Brent, Burton, Carriere, Chambliss, Downs, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Madison, Splane, Stephens and Wederstrandt—26.

The question then recurred on the adoption of the section as amended.

Yeas—Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Cade, Carriere, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Eustis, Guion, Hudspeth, King, Legendre, Leonard, Lewis, Mazureau, Penn, Porter, Pugh, Roman, Roselius, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder—37.

Nays—Messrs. Brazeale, Brent, Burton, Chambliss, Downs, Garrett, Humble, Hynson, Ledoux, McRea, McCallop, Mayo, Peets, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Madison, Splane, Waddill and Wederstrandt—24.

Mr. SELLERS introduced his proposition which he had withdrawn temporarily, and asked that it be printed and laid on the table subject to call, which was ordered.

Whereupon the Convention adjourned over to Monday.

MONDAY, February 10, 1845.

The Convention met pursuant to adjournment.

MR. WALKER resumed the chair, having recovered his health sufficiently to attend the Convention.

The proceedings were opened with prayer from the Rev. Mr. WOOLRIDGE.

Mr. SPLANE offered a resolution appointing a committee to inquire into the expediency of electing an additional reporter in English.

The resolution was adopted, and the president appointed Messrs. Splane, Scott of Madison, and C. M. Conrad, the committee.

The Convention took up the twentieth section of the second article which is as follows:

SEC. 20. "The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance on, going to, and returning from the sessions of their respective houses, provided that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made: *And provided, also*, that this compensation shall exist for the period of sixty days only, but if the general assembly shall at any time extend the session beyond sixty days, they shall not receive any compensation for any period beyond the said sixty days."

Mr. McRAE moved to strike out the proviso.

And Mr. SCOTT of Baton Rouge, that the following be substituted therefor, "provided that the session shall not exceed sixty days."

Mr. BRENT moved that this proviso should not apply to the first legislature held in pursuance of this constitution.

Mr. BEATTY considered that this was merely directory, and that as the supreme court would determine that laws passed by the legislature, after the sixty days, were as valid as if passed before; that it would be ineffectual to arrest prolonged sessions of the legislature.

Mr. TAYLOR of Assumption, considered that this objection of the gentleman from Lafourche, (Mr. Beatty,) was without force. After the expiration of the sixty days the

legislative character of the body would cease. They would be no more than an assemblage of citizens, and certainly not empowered to legislate.

Mr. Conrad of New Orleans, would not pretend to say what would be the decision of the supreme court, but inasmuch as two members of the legal profession had arrived at contrary conclusions, it was evident that the question was somewhat ambiguous.

Mr. Read from East Baton Rouge, moved to amend the section by adding:—*Provided also*, that no session shall extend to a period beyond sixty days, except the session of the first legislature which is to convene after the adoption of this constitution.

Mr. Brent moved to amend the section by inserting after "days," "from the date of its commencement;" the amendment was adopted.

Mr. Downs offered an additional proviso, to wit:

"And unless, also, the session be protracted on a request of the governor, or by a vote of two-thirds of the members of the legislature."

To this proviso Mr. Taylor objected. He would not consent to invest any portion of the legislature with discretionary power in this matter. He should have no objection if it rested with the executive, who would be properly responsible for its use, and with whom in fact it always lay; for he had the perogative of calling, at any time, an extra session. But the object of the Convention was to limit the power of the legislature, to curtail what appeared to be, with it, an inherent vice, superabundant and unnecessary legislation. Sixty days is a term sufficiently long for a session; or it is not; if it be not, extend it; if it be, why cumber the section with clauses and provisos, the effect of which will be to enable the legislature to evade the spirit of the section, and prolong its sessions to any length of time it may please them? Confine them to sixty days, and the necessity of action will present itself to them from the first day they convene; let them understand that the power to prolong it rests with them and they will fritter away their time, leaving the public business in such a state that there would be no difficulty in getting a vote of two-thirds for the prolongation of the session. For his own part he thought sixty days sufficient for all ordinary puposes of legislation; if an extraordinary case arose, then the governor had nothing to do but to call an extra session. He, therefore, thought an absolute prohibition necessary, and in this the language of the constitution should be imperative; if not, they might as well strike out the section altogether.

Mr. Downs remarked that the difference between the legislature extending its sessions and the governor calling a new one, would be that the latter mode would be by far the more expensive.

Mr. Scott of Baton Rouge, moved, before the adoption of these two amendments, to strike out entirely the second proviso, which says that no member shall receive his per diem after sixty days' expiration of a session.

Said motion was adopted.

Mr. Downs' amendment was now put—rejected; nays 51, yeas 11. The question was now on the adoption of the first part of the proviso of the gentleman from Baton Rouge, (Mr. Read,) and the result was as follows:—yeas 50, nays 18. The first part of the proviso was then adopted.

The second clause of the proviso of the gentleman from Baton Rouge, (Mr. Read,) was read and adopted.

Mr. Marigny then offered another proviso, to the effect that no member of the legislature shall receive for their mileage more than $40, going to and returning from the seat of government.

Said proviso was laid on the table indefinitely.

Mr. Mayo moved to amend by fixing the pay of members, going to and returning from the general assembly, at ten cents per mile, instead of four dollars per day.

The amendment of Mr. Mayo was, on motion of Mr. Porter, laid on the table—yeas 37, nays 28.

Mr. Beatty then moved to insert a clause after the word "commencement," in the section, "that any legislative action had at the expiration of sixty days, would be null and void." Without such a provision it was his opinion, and that of some other gentlemen of the bar around him, that the legislature would continue to sit beyond the term of sixty days, and the supreme court would pronounce their legislation valid; without this clause the language of the section would be taken as merely de-

claratory and not as prohibitary. The member from Avoyelles moved to lay the clause on the table. The motion was lost, yeas 24, nays 27.

The whole section, as amended, was on motion of Mr. Beatty, then put and adopted—yeas 58, nays 8.

The section, as adopted, reads thus:

Sec. 20. "The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance on, going to, and returning from the sessions of their respective houses, provided that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives, by whom such alterations shall have been made; and provided also, that no session shall extend to a period beyond sixty days from the date of its commencement; that any legislative action had at the expiration of sixty days would be null and void; except the session of the first legislature which is to convene after the adoption of this constitution."

The 21st section was next read and adopted without debate. It reads as follows:

Sec 21. "The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place."

The 22d section was read and without debate adopted, to wit:

Sec. 22. "No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been erected or the emoluments of which shall have been increased during the time such senator or representative was in office; except to such offices or appointments as may be filled by the election of the people."

Section 23d was, on motion of Mr. Lewis laid on the table, subject to the call of the house. [The section renders any minister of religion eligible to the general assembly or to any office of profit or trust under the government.] He had reflected much on the subject, and although good reasons might have existed for such a section when the old constitution was framed, the question was, did they still apply? He thought not and meant hereafter to move for its rejection, at which time he would submit to the house the grounds of his action.

The 24th section was adopted without debate, to wit:

Sec. 24. "No person who may at any time have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any other office of profit or trust under the State government, until he shall have obtained a quietus for the amount of such collection, and for all the public moneys with which he may have been entrusted."

The 25th section was also adopted without originating any debate, as follows:

Sec. 25. "No bill shall have the force of a law, until on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule."

The 26th section was also adopted, to wit:

Sec. 26. "All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills; *Provided*, that they shall not introduce any new matter under the color of an amendment which does not relate to raising a revenue."

The 27th and last section was next read and adopted:

Sec. 27. "The general assembly shall regulate by law, by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof."

Mr. C. M. Conrad gave notice that at a future day he would move for the re-consideration of the eighth section, with the view of having a clause incorporated with it, which he handed to the secretary to have read, and moved at the same time that it be printed. It adds, in addition to the age and residence qualifications for voting, the further one of an annual State tax of one dollar, or the voter, or his father, or his mother must pay $—, annually, house rent.

The motion to print was lost.

Mr. O'Bryan moved that the rules be dispensed with and that the resolution be taken up forthwith.

Mr. Conrad declined; he had not yet made the motion to re-consider; when he should, the gentleman might take such action on it as he thought proper.

Mr. Garrett moved reference of a resolution which he offered to the committee of revision; it was to prevent the language of the eighth section having a retro-active effect. Referred.

Mr. M. Taylor called up the eleventh section with the view of amending it the better to define the residence qualification as laid down in the section. He read his amendment. It provides that any person leaving the State for sixty days, and having in it no house or workshop in which a servant or a portion of his family remains in charge, shall be considered as having forfeited the residence qualification of this constitution. He explained how necessary it was to be clear and explicit on this subject, and how reasonable was his proposition.

Mr. C. M. Conrad moved that the resolution be printed, which was carried; and on motion of Mr. Cenas the Convention adjourned till 11 o'clock to-morrow.

Tuesday, February 11, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened by prayer.

The Convention took up section 9th of the report of the majority of the committee as follows:

The members of the Senate shall be chosen for the term of four years, and when assembled shall have the power to choose its officers every two years.

On motion of Mr. C. M. Conrad, sections 11th and 12th relative to the Senate were laid on the table until the house shall have determined the question of apportionment.

On motion of Mr. Benjamin, the Convention took up the 4th section of the 2d article, which had been amended and not adopted as amended by the casting vote of the President.

Mr. Chinn moved to amend by adding to the qualification to be a representative, the following words: "and shall possess landed property to the amount of $500 at least."

Mr. Voorhies moved for the rejection of the amendment and called for the ayes and nays, which resulted as follows:

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cénas*, *Chambliss*, *Claiborne*, *Conrad* of Jefferson, *Covillion*, *Dunn*, *Eustis*, *Garrett*, *Grymes*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *King*, *Labauve*, *McCallop*, *McRea*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wederstrandt*, *Wikoff*, and *Winder*, voted in the affirmative—52 yeas; and

Messrs. *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Conrad* of New Orleans, *Culbertson*, *Derbes*, *Legendre*, *Lewis*, *Pugh*, *Roman*, and *St. Amand* voted in the negative—13 nays.

Mr. Humble moved to adopt the original report of the committee, which gave rise to a debate. Messrs. Brent and Scott of Baton Rouge, Humble and Downs, contending that the original report was in order; and Messrs. Benjamin, Guion and Claiborne, that the section as amended was in order.

The Chair decided that the section as amended was in order.

Mr. Downs appealed from the decision of the Chair.

The question was put shall the decision of the Chair be maintained, and the yeas and nays being called for, resulted as follows:

Messrs. *Auburt*, *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Briant*, *Brumfield*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Garrett*, *Grymes*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prescott* of Avoyelles, *Pugh*, *Prudhomme*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wikoff and Winder* voted in the affirmative—41 yeas.

Messrs. *Brent*, *Burton*, *Cade*, *Carriere*, *Downs*, *Eustis*, *Humble*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bry-*

an, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Trist*, *Waddill* and *Wederstrandt* voted in the negative, 31 nays.

The section as amended being before the Convention, Mr. GUION moved to amend by striking out the word "four," so that to be eligible to the house of representative "three" years be sufficient.

Mr. DOWNS asked for a division of the question.

Mr. PRESCOTT of St. Landry, offered the following substitute for the whole section. "That all persons eligible to the right of suffrage be eligible to a seat in the legislature."

The question was taken upon striking out the word "four," and the ayes and nays were called for, which resulted as follows:

Messrs. *Aubert*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Cade*, *Carriere*, *Cénas*, *Chambliss*, *Chinn*, *Conrad* of New Orleans, *Downs*, *Eustis*, *Garrett*, *Guion*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRea*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Trist*, *Waddill*, and *Wederstrandt*, voted in the affirmative—44 yeas; and

Messrs. *Beatty*, *Brumfield*, *Burton*, *Claiborne*, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbès*, *Dunn*, *Garcia*, *Grymes*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wikoff*, and *Winder* voted in the negative—29 nays.

The question was then taken upon filling up the blank with "three," and the ayes and nays were called for, which resulted as follows:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbès*, *Dunn*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wikoff* and *Winder* voted in affirmative—38 yeas; and

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Chambliss*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *MCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Trist*, *Waddill*, and *Wederstrandt*, voted in the negative—35 nays.

Mr. PRESCOTT of St. Landry offered his section as a substitute.

The question was raised, whether the substitute was in order. The PRESIDENT decided that it was.

Mr. CONRAD moved to lay it indefinitely on the table, which motion prevailed. The ayes and nays being called for, resulted as follows:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbès*, *Dunn*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wikoff* and *Winchester* voted in the affirmative—38 yeas; and

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Chambliss*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill*, and *Wederstrandt*, voted in the negative—36 nays.

Mr. CLAIBORNE presented the following: "No one shall be eligible to be a representative unless he shall, at the period of his election, have been a free white male citizen of the United States and have attained the age of 21 years, and have resided within the State three years preceding the election, and the last year in the parish.

The foregoing was adopted; those voting in the affirmative, are,

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Chambliss*, *Downs*, *Eustis*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles,

Prescott of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill* and *Wederstrandt* voted in the affirmative—36 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbès*, *Dunn*, *Garcia*, *Garret*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wikoff*, *Winchester* and *Winder* voted in the negative—40 nays.

On motion of Mr. Benjamin, the Convention took up 3d article of the constitution as reported by the majority of the committee upon the executive department.

Sec. 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of Louisiana. He shall hold his office during the term of four years, and together with the lieutenant governor, chosen for the same time, be elected as follows:

Sec. —. The citizens entitled to vote for representatives shall vote for a governor and lieutenant governor, at the time and place of voting for representatives. Their votes shall be returned by the officers presiding over the election, to the seat of government, addressed to the speaker of the house of representatives, and on the second day of the session of the general assembly then next to be holden, the members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected, if such number be a majority of all the votes given; but if no person have such a majority, then from the two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately by ballot the governor. The person having a majority of the votes given for lieutenant governor, shall be the lieutenant governor, and if no person have a majority, then from the two persons having the highest numbers on the list, the general assembly shall in the same manner, choose the lieutenant governor. The first section was adopted.

Mr. Ledoux moved to substitute the 2d section of the minority report for the 2d section of the majority report. He remarked, that the only difference between the two sections was, that the election of governor by the report of the minority was entirely confided to the people.

MINORITY REPORT:

Sec. 2. The governor shall be elected by the qualified electors of the State, at the same time and place where they shall respectively vote for representatives and senators. The returns of every election shall be sealed up, and transmitted to the secretary of the State, who shall deliver them to the speaker of the house of representatives, who shall open and publish them in presence of both houses of the general assembly; the person having the greatest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of the general assembly. Contested elections for governor shall be determined by both houses of the legislature, in such manner as shall be prescribed by law.

Mr. Roman said, he could see no reason why this section of the report of the majority should be thrown aside. It appeared to him to lead to the same result, inasmuch as it tended to elect the candidate having the plurality of votes. And, moreover, said Mr. Roman, the committee anxious to comply with the law convening this Convention, presumed, that in order to carry out the design of that law, they could not do better than to base their action upon the federal constitution.

Mr. Soule said, that he considered the section offered by Mr. Ledoux, on behalf of the minority of the committee, was infinitely preferable. Had he entertained any doubts on the subject the remarks of the member from St. James, (Mr. Roman) would have dispelled them. How is it that the delegate has discovered that we should conform strictly to the law convening the Convention, for which I insisted with whatever feeble powers I may possess, when a few days ago that gentleman was one of those that were most favorable to restrictions, and going beyond the requisites of the law, by establishing odious dis-

tinctions among our citizens. If, as the gentleman assumes, the report of the majority will have the same practical effect as that of the minority, why does he object to the latter since it presents a more popular principle; and if it be really true that the legislature could not do otherwise than elect the candidate having the plurality, why place it in their power to defeat the public wishes?

The annals, said Mr. Soule, of the federal government are too fresh in our remembrance not to admonish us that the legislative department of the government is quite capable of abusing this power. Who does not remember with indignation, that when the majority of the popular voices were cast for the revered Jackson, the wishes of the people were set at naught, and the minority candidate was made the president? If it be really the desire of those that favor the report of the majority, that the candidate having the plurality should have the preference, state it clearly and distinctly in the constitution, so that there cannot be any mistake, and that the representatives of the people may not impose upon the will of the people a candidate who is not the choice of the people.

Mr. Lewis said, he was in favor of the principle contained in the minority report. He prefered that principle, but it appeared to him that the style of the majority report was the best, and the principle of the former could be engrafted upon the latter. He would suggest an amendment to the majority report to that effect.

Mr. Soule thought that if the words were added to the section reported by the minority, "and the lieutenant governor," after the word "governor," this would meet the views of the delegate from St. Landry.

On motion the Convention adjourned.

Wednesday, February 12, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer from the Rev. Mr. Hinton.

Mr. Splane, on behalf of the committee appointed to investigate the causes of the delay in the publication of the reports of debates, offered a resolution that an additional reporter in English be appointed.

Mr. C. M. Conrad expressed his dissent from the report. He had not attended the meeting of the committee, and had he been in his seat when he was appointed on it, he would have requested the President to have excused him from serving. It was conceded on all hands that the reporter could not keep up a daily report with the deliberations of this body, but he saw no necessity for this. Where was the necessity that all that occurred here should be transmitted with all the rapidity of steam presses and steamboats over the country. Whether the reports were a few days behindhand he considered a matter of no very great consequence. It was no doubt pleasing for members to see themselves in print —perhaps he himself was under the influence of this weakness, but he saw no occasion for this hot haste, which would curtail additional expense and was after all, but a small matter.

Mr. Chinn said that when Mr. Kelly was displaced, it was said that the reporter was not at fault, and now it is admitted that he cannot keep up with the daily proceedings of the Convention. This appears to be a striking contradiction. He was opposed to the resolution.

Mr. Splane said that there was no contradiction in point of fact. Mr. Kelly published nominally weekly, whereas the present printers publish daily.

The question was taken on the adoption of the resolution—Mr. Labauve in the chair. The result was 33 yeas; 32 nays—Mr. Labauve voting in the negative, the motion to adopt was lost.

On motion of Mr. Voorhies the motion to adopt was reconsidered.

And on the motion of Mr. Beatty the further consideration of the subject was postponed until 2 o'clock, in order that the question should be decided in a full house, Mr. Beatty expressing himself averse to the passage of the resolution.

The motion for postponement prevailed.

Mr. Eustis, on behalf of the committee on revision, reported the sections which had been referred to that committee.

After some remarks from Messrs. Conrad of Orleans, Downs, Miles Taylor, Roman and Benjamin, Thursdays of each week were set apart for the consideration of the reports of the committee upon revision.

Mr Beatty, in comformity with the rules, gave notice that on Friday next he would

move for the reconsideration of the 5th section of the 2d article, with the design of making it conform to the 10th section. The opposition in sense, was not merely verbal, and therefore would not fall under the supervision of the committee on revision.

On motion, the Convention proceeded to the consideration of the unfinished business of yesterday, being the 2d section of the 3d article, reported by the majority of the committee on the executive department.

Mr Ledoux had moved to substitute the 2d section of the report of the minority of the committee, as follows:

Sec. 2. The governor shall be elected by the qualified electors of the State, at the same time and place where they shall respectively vote for representatives and senators. The returns of every election shall be sealed up, and transmitted to the secretary of state who shall deliver them to the speaker of the house of representatives, who shall open and publish them in presence of both houses of the general assembly; the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of the general assembly. Contested elections for governor shall be determined by both houses of the legislature, in such manner as shall be prescribed by law.

Mr Lewis moved to amend the 2d section of the report of the majority by striking out in the 19th line the words, "If such number be a majority of all the votes given; but if no such person have such a majority, then from the two persons having the highest number on the list of those voted for as governor, the general assembly shall choose by ballot the governor.

Mr Mayo offered the following amendment to the 2d section of the report of the minority, as reported by Mr Ledoux, to wit, viz:

Sec. 2. The citizens entitled to vote for representatives, shall vote for a governor and lieutenant governor at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted to the secretary of state, who shall deliver them to the speaker of the house of representatives, and during the first week of the general assembly then next to be holden, the members of the general assembly shall meet in the house of representatives to examine the returns of the election; the person having the highest number of votes for governor, shall be governor, but if two or more shall be equal and highest in votes for governor, one of them shall be chosen governor by the joint vote of the members of the general assembly.

The person having the highest number of votes for lieutenant governor, shall be lieutenant governor: but if two or more persons shall be equal and highest in votes for lieutenant governor, one of them shall be chosen lieutenant governor by the joint votes of the members of the general assembly.

Mr C. M. Conrad said that upon mature reflection he was in favor of the principle reported by the majority of the committee. He supposed a case, where five persons were candidates for the office of governor, and four of them obtained, respectively, 2,500 votes, and the fifth 2,501 votes, it was clear that the latter had not obtained the majority of the votes, and yet, in virtue of the report of the minority, he would be the governor. Would this be just or expedient? He thought not. The time might arrive when there would be local divisions in the State—contests for supremacy between the east and the west, the north and the south—between the city and the country—it might happen that arrangements might be made, that particular candidates should run in particular sections, so as to divide the strength of these sections and lead to the success of a particular candidate, if the principle in the minority report prevailed, and it might give rise to these arrangements, and the result would be, that a governor, chosen by a minority, would be foisted on the people. He could not consent to anything leading to the possibility of these occurrences, though it might be alledged that the principle in the minority report was the popular principle. He contended that if the legislature made the selection where there was not an absolute majority, it was after all, the choice of the people through their representatives. The representatives of the people were the mandatories of the people, and their choice, it was reasonable to infer, would be the choice of the people. It was a mistake to suypose that where the representatives of

the people acted on behalf of the people, it was not the act of the people.

Mr. KENNER could not take this view of the subject. He considered it very objectionable to place the legislature between the candidates and the people. While he favored the principle of the minority report, he preferred the phraseology of the majority report, which could be amended in that particular respect.

Mr. CLAIBORNE said, that experience had demonstrated that the legislature would not make an improper use of the power. For thirty-two years they had invariably selected the candidate for governor that had the highest number of votes, when there was no election by the people. It was not likely they would pursue a different course, unless there were sufficient grounds for it, and in such cases, he conceived they should be vested with the discretionary power; as their choice would under such circumstances, be that of the people.

Mr. LEWIS had a word or two to say in reply to what fell from his friend from New Orleans, (Mr. Conrad.) In the case supposed by that gentleman, if three candidates were to run, two obtaining almost an equal vote and the third obtaining one hundred votes less, should the legislature chose the middle man, he (Mr. L.) would ask whether there would not be a minority governor, and a minority governor with a vengeance! He was opposed to the legislature intervening at all—if they selected the candidate having the highest number of votes, their intervention was useless; if they selected one of the others, their intervention would give just cause of complaint. He was not disposed to allow the legislature to mask their power of electing the governor. If they are to elect the governor at all, let it be done as in South Carolina, in every instance. He was for going the whole length. Upon this subject, he disagreed with some of those with whom it was his pride and pleasure to act on most occasions, and he might be called in reference to this matter, a radical. In Massachusetts, when there was no choice of governor at the first election, the two highest candidates were sent a second time before the people. The objection to this plan was its inconvenience. He was decidedly in favor of the principle in the minority report.

Mr. DOWNS sustained the proposition to substitute the 2d section of the minority report for the 2d section of the report of the majority. We have already had an example in the federal government, that the wishes of the people might not be consulted, and that there might be some bargain or intrigue to defeat their wishes.

Mr. MARIGNY said, that in fact the legislature ought not to intervene with election. That the plurality of votes ought to suffice when there was not an absolute majority. The first station in a country, said Mr. Marigny, let it be filled by an officer called a king or governor, was invariably an object of intrigue, and sometimes of revolutions, when it is not the people who elect immediately. History abounds with examples. He would refer particularly to the history of Poland, where although the crown had been elective, yet the election had been confined to a mere fraction of the people. In the election of the popes at Rome, the cardinals are confined to their cells, in order to prevent them from the intrigue and cabal which would otherwise attend the election. Does any one suppose, asked Mr. Marigny, that the legislature, if they have the power, will elect the plurality candidate to be governor? Not at all! They would elect the greatest intriguer, and it might reasonably be inferred, generally, that the candidate having less votes among the people would be the most active and most eager in determining votes in the legislature.

Mr. CHINN moved that the substitute and amendments be laid on the table and called for the ayes and nays.

YEAS.—Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Cenas*, *Briant*, *Brumfield*, *Cade*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *Prescott* of St Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Winchester* and *Winder*—43 yeas.

NAYS.—Messrs. *Brazeale*, *Brent*, *Burton*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Hynson*, *Ledoux*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Taylor* of As-

sumption, *Waddill* and *Wederstrandt*—24 nays.

Mr. Mayo then offered the following amendment, to be inserted after the last word "representatives," in the first paragraph.

"The returns of every election shall be sealed up and transmitted to the secretary of state, who shall deliver them to the speaker of the house of representatives to examine the returns of the election. The person having the highest number of votes for governor shall be governor; but if two or more shall be equal and highest in votes for governor, one of them shall be chosen governor by the joint vote of the members of the general assembly."

Mr. Lewis then moved to strike out from the nineteenth line the words, "If such numbers be a majority of all the votes given, but if no person have such a majority then from the two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately by ballot the governor," and insert in lieu thereof the words, "but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor, by joint vote of the members of the general assembly."

Mr. Downs moved for a division, to take the question upon striking out, when

Mr. Beatty announced that the hour had arrived to take up the resolution for the election of an additional reporter.

The question was taken upon the resolution, and it was decided in the affirmative by the casting vote of the President.

Mr. Wadsworth nominated Mr. Denis Corcoran for reporter.

Mr. Splane nominated Mr. Ilsley.

The votes being counted, it appeared that Mr. Ilsley was duly elected.

Whereupon, on motion, the Convention adjourned.

Thursday, February 13, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer by the Rev. Mr. Stephens.

Leave of absence was granted to Messrs. Sellers and Winder on account of sickness.

Mr. Voorhies offered the following resolution:

Resolved, That all those members of the Convention who do not answer to their names at 10 o'clock, when they are called, shall not be entitled to their per diem.

Mr. Mayo moved, "except in case of the sickness of any member who may fail to do so;" to which, no objection was made.

Mr. Kenner was in favor of the motion, and called for the sense of the house upon it. The question was then put and lost.

Order of the Day.—Article 3d, Executive Department; section 2d.

Mr. Dunn addressed the Convention on the amendment proposed by Mr. Lewis on the previous day, which was to strike out all the following words:

"If such number be a majority of all the votes given; but if no person have such a majority, then from the two persons having the highest number on the list of those voted for as governor, the general assembly shall choose immediately by ballot the governor."

Mr. Dunn said, he was unwilling to give a silent vote on this subject, and would therefore give his reasons for his vote. The governor he considered a very important officer—he was charged with the execution of the laws—he was clothed with the veto power—the appointing power—the pardoning power—he was commander-in-chief of the militia. In view of the magnitude of this officer, he asked if it was right or consistent with the fundamental principles of democracy, that he should be elected otherwise than by a majority of the votes cast? He maintained that the will of the majority of the whole people should be required, directly at the ballot box, if possible, and if on a failure of any candidate's receiving a majority, then the election to be sent back to the people, or referred to the legislature to make a choice from the two highest.

He maintained that if a plurality of votes were to elect, the governor would not feel that responsibility to the people which he conceived to be necessary for the permanency of a representative government, and was at a loss to understand why so many gentlemen were unwilling to trust the legislature; he was inclined himself to repose a higher confidence in that tribunal; he esteemed the legislators as the representatives and agents of the people; there might be

among them *log rolling*, but was unwilling to disparage by supposing them dishonest; he looked upon the legislature as a deliberative and responsible body, with power to make laws and to elect senators, and thought, as a *dernier resort*, the election of governor might be safely left to them; he had no doubt it was far better, more expedient and more consistent with democratic principles to do so, than to have a governor elected by a mere plurality of votes, for he held that the wish of the majority should be manifested either at the ballot box directly, or through the people's agents, the legislature.

In some States the plurality system might answer very well, but in a State like Louisiana it would not do at all; in the country the white population is sparse, and it would be giving to New Orleans the power of making the governor. He was surprised that gentlemen who yesterday feared the influence of the city on account of numbers, were to-day voting to insure her, if not now, in ten years hence, all of our governors. He said the tendency of the plurality system would be to produce faction; that the love of office was very great, and would have its influence that way, and consequently would be the means of causing a multiplicity of candidates, and it would be impossible for any one to get a majority; the weakest and most objectionable might be elected, one who might feel responsible to his party and friends only. He confessed he was surprised at the popularity of this measure; considered it a sweep-stake race, the foremost nag to take the purse, and had no doubt there would be many entries, as the forfeit is nothing, and the price of entry only age and residence. Money or property belongs to the days gone by, and is repudiated by this Convention, and not considered a necessary qualification. He said there were many other reasons that might be urged, but as he was certain the Convention were determined on their course, he would not detain it longer, and would only add as an additional reason that induced him to vote as he should, the fact that in this State there are two distinct races—American and French; that heretofore a great jealousy existed between them, which time has in a great degree happily effaced. He believed the plurality system would have a tendency to re-kindle and inflame that feeling, and knew that all thinking men would be pleased to obviate it.

Mr. Taylor of Assumption, felt sure that the desire of the Convention, or a majority of them, was to elect a chief magistrate by a majority of the people, and the only difficulty in his mind was how that was to be done? He did not agree with some members that the legislature would be able to discriminate so as to bring about that result, because a large majority of that legislature frequently represented but a small minority of the people, in the aggregate. That arises from their being elected by localities.

The principles of this section, as reported, has the very effect which some gentlemen attributed to its opposite, viz: the causing a multiplicity of candidates; but the plurality principle brought two candidates before the people, and therefore was most likely to promote the desire that the majority should rule.

The motion to strike out was called for and the yeas and nays asked. Before the vote was taken, Mr. Claiborne desired to take exceptions to some remarks which had fallen, as regards the principle of interfering with the legislative will. He would always advocate such expression, where there is no expression or public will. He deprecates the danger there must and will be in leaving the door open on such occasions; and objects on that account to any such plan going into effect. While at the same time he thinks that the minority should not have the power of defeating the will of the majority; therefore he opposes the motion to strike out.

The question was then put, and carried, to strike out.

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Covillion, Culbertson, Downs, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Leonard, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Penn, Porche, Porter, Preston, Prudhomme, Pugh, Ratliff, Read, St. Amand Saunders, Scott of Baton Rouge, Scott of Madison, Soulè, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wadsworth and Wederstrandt—48 ayes; and

Messrs. Boudousquie, Briant, Chinn, Claiborne, Conrad of New Orleans, Derbes, Dunn, King, Labauve, Legendre, O'Bryan,

Roman, Taylor of St. Landry and Wikoff—14 nays; so the motion to strike out prevailed.

Mr. Lewis then moved to fill the blank in the seventeenth line, with the words, the person having the greatest number of votes for governor, shall be declared duly elected; but if two or more persons shall be equal and highest in number of votes polled for governor, one of them shall be immediately chosen governor by the joint vote of the members of the general assembly."

Mr. Preston could not see the use of this clause. He thought much valuable time was lost in legislating for improbabilities. It was far better to make a practical constitution, than waste our time on improbabilities, for it certainly never could be contemplated or expected, that any of the candidates would get an *equal* number of votes, and therefore opposed the motion.

Mr. Conrad thinks the motion made is a correct one, for such things have happened as in Massachusetts, in the case of Gov. Morton, and elsewhere, and may happen again.

Mr. Preston thinks it never did, nor ever would occur.

Mr. Conrad of New Orleans, then adverted to the fact of a tie vote being not an uncommon thing, even as near as the parish of Ascension, where in several instances on very important occasions, tie votes had been given. He therefore thought the amendment a wise and salutary one.

Motion to reject was put and lost, and then the amendment was adopted.

Mr. Preston thought that the latter clause should be stricken out, and moved to strike it out. Moved and seconded.

Mr. Culbertson thought the same principle should apply to the lieutenant governor as to the governor's election.

Mr. Lewis wishing to test that principle moved the adoption of the latter clause, in which the sense of the house was taken, and it was adopted.

Mr. Guion moved, that the report be so amended that the words "secretary of state" be inserted in place of the words "speaker of the house," which was agreed to.

Mr. Mayo moved to strike out all after the word "representatives," in the fourth line, as the commissioners contemplated by the report, might be faulty in their returns.

Mr. Downs is of opinion that the proper mode would be to insert the words "proper officer created by law," and made a motion to that effect, which prevailed.

Mr. Soule desired the insertion of the words "greatest number," in lieu of the words beginning at the 24th line.

Mr. Mayo then moved to strike out all after the word "elected," in the 8th line down to the 15th line, and to insert "the votes to be counted during the first week," instead of the second day, "by joint vote, &c," and then supposed the case of the legislature not having a quorum on the second day.

Mr. Lewis would much prefer the phraseology should remain undisturbed. The new legislature cannot commence without a governor: again, the house might perhaps disagree, as has happened elsewhere in the election of senators; in that case, as in the case of the senators, who were not elected by this disagreement, we should be placed in the same position with regard to a governor; and he is clearly of opinion that it is right to fix a day for the legislature to do their duty.

Mr. Mayo withdrew his motion and the question was then put on the section as amended, and which reads as follows:

Sec. 2. The citizens entitled to vote for representatives shall vote for a governor and lieutenant governor, at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted by the proper returning officer created by law to the secretary of state, who shall deliver them to the speaker of the house of representatives, and on the second day of the session of the general assembly, then next to be holden, the members of the general assembly shall meet in the house of representatives to examine and count the votes, the person having the greatest number of votes for governor shall be declared duly elected, but if two or more persons shall be equal and highest in number of votes polled for governor, one of them shall be immediately chosen governor by the joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor, shall be the lieutenant governor, but if two or more persons shall be equal and highest in number of votes polled for lieu-

tenant governor, one of them shall be immediately chosen lieutenant governor by the joint vote of the members of the general assembly.

Messrs. *Aubert*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Downs*, *Eustis*, *Garrett*, *Guion Hudspeth*, *Humble*, *Hynson*, *Kenner*, *Ledoux*, *Leonard*, *Lewis*, *McCallop*, *Marigny*, *Mazureau*, *McRae*, *Mayo*, *Peets*, *Penn*, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Porche*, *Porter*, *Pugh*, *Ratliff*, *Read*, *Saunders*, *Splane*, *Stephens*, *Soulé*, *Scott* of Baton Rouge, *Scott* of Madison, *St. Amand*, *Trist*, *Taylor* of Assumption, *Voorhies*, *Waddill*, and *Wederstrandt* —52 ayes.

Messrs. *Chinn*, *Derbes*, *Dunn*, *Garcia*, *King*, *Labauve*, *Legendre*, *O'Bryan*, *Roman*, *Roselius*, *Taylor* of St. Landry, and *Wikoff*—12 yeas; the section was therefore adopted.

Mr. Roselius, while the vote was being taken, desired to express his reason for voting in the negative; it was, that in his opinion, the section as it stood, gave the power to a minority to elect a governor.

The 3d section was then taken up, it reads as follows: "The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected."

Mr. Saunders moved a momentary suspension of the rules of the house to make a report from the apportionment committee. Suspension granted. He then made said report; asked that it be laid on the table and made the special order of the day for Monday next. Agreed to.

The 3d section was then adopted without amendment, being the same as that in the constitution of 1812.

The 7th section was then readopted as in the constitution of 1812.

"Sec. 7. The governor shall at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected."

The 8th section was then taken up, and Mr. Grymes moved to strike out in the 45th line all the words after the word "except when in the service of the United States." He felt that we should not, in justice, require that our governor should be the only man required to keep his sword in the scabbard. On the contrary, he would leave him free to act as circumstances and his duty to his country might require.

Mr. Conrad did not regard it in the same light as the delegate from the county of Orleans, for although we may elect a governor of sufficient capacity for all the other duties of the office, still if we made him the commander of our forces in time of war or invasion, he might not possess the proper qualifications for a general. It had heretofore been the custom to employ majors general who had been trained to arms for such a purpose.

Mr. Kenner thought for that reason that the whole section was wrong, and moved to reject it. To his mind the beginning and the end of the section are totally at variance.

Mr. Conrad here referred to the case of Mr. Madison, who, although a very good man, still made but a poor general when called into service as commander-in-chief. The sense of the house was taken on the section as amended, and it was so adopted. It reads thus:

Sec. 8. He shall be commander-in-chief of the army ot this State and of the militia thereof, except when they shall be called into the service of the United States.

Section 9th then came up for discussion.

Mr. Splane moved to strike out the whole section.

Mr. Downs thought it was improperly printed, there being two copies of it in different parts of the house.

The secretary explained, that there were certain sections reported as not requiring amendment, which had been inserted in the first printed copy.

Mr. Roman desired to take them in the order adopted by the constitution.

Mr. Downs moved to take them in the order reported by the committee, which was adopted.

Mr. Dunn moved to strike out all after the second line, beginning at the word "native," &c. &c.

Mr. Dunn said he was induced to make this motion from a sense of justice to the naturalized citizens of our State; many of of them by a long residence have acquired rights that should not be disregarded. Whilst we admit the constitutional power

of this Convention to engraft the report of the committee into the constitution, and thereby preclude the natralized citizens from filling the office of governor—still we must feel that in a moral point of view it would be wrong to do so. It seemed to him to be invidious and highly inexpedient.

It should be remembered, sir, that we have in our State many valuable citizens of this class, who have been here a long time; they have vested their all here; there labor has been bestowed, and their capital expended in the improvement of the country; the constitution which we are called to amend, guaranteed to them the privilege which is now asked to be taken from them. And, sir, who called this Convention? Who assisted in electing the delegates here assembled? This very class contributed in conferring upon us the power we now have. Did they do so with the expectation of our curtailing the privileges secured to them under the old constitution? Surely not. Nor was it contemplated by the people of the State, (those at least, who reside in the parish I have the honor, in part, of representing.)

He said he could see no necessity whatever for the restriction insisted upon. That many of our foreign friends had intermarried with our families; their interests were completely interwoven with our own, and he should regard them as Americans, and not doubt their patriotism. To draw the line of distinction disparaging to them, would be casting a fire-brand into the bosom of society, that would be productive of great discord—of great mischief. Sir, I ask if it would be just, fair, or honorable, to curtail them of those rights which they have enjoyed for so long a time under the old constitution? I shall not sanction it. I consider it, under the circumstances, wrong, and shall vote to strike out the word "native." Let the time be limited to sixteen years' residence as a citizen of the United States, and to ten years' residence in the State, and we shall have a sufficient guarantee of interest and attachment to the country. This, he said, he considered conservative—all extremes he looked upon as radical.

Mr. President, it should be remembered that in the Florida parishes there are many good men, who were born there prior to the acquisition of that part of our State—they are not American born; would you deprive them of any privilege? For instance, our worthy friend Mr. Carpenter, (the sergeant at arms,) was born in Florida, under the Spanish government; would you deprive him of the privilege of being our governor? (The gentlemen around me say *that* will be provided for.) To provide for it, sir, is to make another distinction—let us avoid that, and say in the liberality of our hearts that we will give no ground of complaint to any of our people, whether they come from Florida, or come across the big waters.

He said it was painful to differ with those with whom he usually concurred, but was bound to do so upon this occasion—he was aware that there was a great prejudice at this time against foreigners; he felt the force of it himself, and was admonished to be just; he believed the naturalization laws required amendment; but this was not the forum—the subject belonged to congress; and he had no doubt with some alteration that would prevent frauds upon the elective franchise, all prejudice would be removed, and the public mind tranqualized. This Convention has already done something that he considered calculated to prevent fraud, and he expected would do more before it adjourned; but he was unwilling to go to any extreme upon this or any other subject that may arise in our deliberations.

Mr. Lewis was opposed to striking out one word of the provision made in the section; aye, to striking *out one single word.* Gentlemen may as well meet this question at once; and he regards the motion to strike out as a test vote on the principles of the whole section. I regard the provision to be a good one. There are so many in favor of none but a citizen of the United States ever becoming a governor of a State, that we may well pause and examine the question. This is no novel question; if it were why then have New York, Maine, Virginia and many other States, engrafted it in their constitutions? Are they less liberal, less patriotic, less democratic in their views than we are? I think not. No sir, it is a measure called for by sound policy, and, sir, I desire to record my vote upon it, whether it pass or not, for the benefit of my children, that they may look upon and reflect upon my vote upon this question when I am no more. Moreover, I think,

sir, the provision requiring the governor to be possessed bona-fide of landed property to the value of $5000 before eligible to the office, a wise provision. I deem a property qualification in the person filling such an office an important pre-requisite. But I regret that this question was called up until the question of the pre-requisites for a seat as senator, had been settled. It would have been far better to have settled that question first; and then we should have better known what guards ought to be thrown around the claimants for executive favor at the hands of the people. Desiring to secure the interests of the whole people, I would dislike to see a man elected governor, with power under the legislature to tax the people, without his being called upon to aid in such revenue. But if the motion to strike out prevail, the chances are that the first governor under the new constitution will have no property qualifications. What interest can he then have in looking to the taxing power, having no taxes himself to pay? The taxing power has always been considered the most important in the government of any free State or country. If the governor possesses nothing to tax, self interest is taken away, and when that is taken away I fear for the interests of the community, either from disregard or in-attention on his part to the interests of his fellow citizens. I think the property qualification recommended, to be the best guarantee for such protection of equality on the taxing power. It has been suggested that nothing but residence is requisite. Now, sir, I for one am opposed totally to that doctrine. I desire no uncertainty left, for a popular election to decide the merits of; I desire to see the principle fixed that we cannot be left to any such chance as that, the country is to be govered by those who have no property at stake themselves. Moreover, I think that the governor of the State should first arrive at the years of discretion. To be at the helm of affairs where such vast interests are concerned, requires that many frosts shall have passed over the head of any man of 21 years ere he can be suffered to have arrived at such an age as to pass for a man arrived at the years of discretion.

Mr. Culbertson thought it would be better to divide the question, but the president decided it could not be divided.

Mr. Beatty thinks it would be better to strike out a part of it. He would strike out the first clause, for we have not the right under the constitution of the United States, to deprive any citizen of another State, who has the necessary residence under our constitution, from being the governor of the State; secondly, he would strike out the property qualification, but in orde- to guard against all danger, he would suggest that it be required of him that he shall have been a citizen of the United States for at least ten years before he can be eligible to the office of governor of the State of Louisiana.

Mr. Grymes thought this was a circuitous way of arriving at the question; he wants the vote taken on striking out, and then, if that fail, it can be so amended as to take in or leave out particular parts of the section.

Mr. Downs thought that the experience of the previous day would have shown the fallacy of such a course.

Mr. Dunn persisted in his motion to strike out, particularly the word native.

Mr. Beatty moved to strike out all after the word "except" in the 2nd line to the 6th line.

Mr. Conrad is of opinion that the constitutional objection raised on this question, by the member from Lafourche, is perfectly untenable and unfounded. For his part he thinks the convention has the power to make the requirements of citizenship 15 years, or in fact any time they please. The Congress of the United States provides that he must have been a citizen of the U. States a certain number of years before he can be eligible, and that none but a native citizen can be president of the U. States. There is nothing in the constitution of the United States, denying the power of the several States from settling themselves, the qualifications of their own chief magistrates. It is no new question. I would refer to the State of Maine and would read from the constitution one of its clauses. The governor to be eligible, shall not be less than thirty years of age, and he must be a natural born citizen of the U. States.

Mr. Beatty feels yet perfectly satisfied that it is prohibited in the constitution of the United States, for the Convention to make any such provision. If we can, why not confine it to native born citizens of Louisi-

ana? No citizen, in his opinion, from any other State should be placed on a different footing, than if he were born in this State. No limit should be placed, except the term of residence, and that he conceives to be a right of the Convention. He thinks the age of 35 years a just and equitable right on their part to fix upon as a pre-requisite qualification for a governor, but beyond that he is opposed to their power, as conflicting with the constitution of the United States.

Mr. Taylor: while he agreed that his mind was impressed with the views of the member from New Orleans, will yet vote for the measure recommended by the member from Lafourche.

He agrees with the member from New Orleans, that the argument about the United States and a single State is entirely different. It is said by the member from Lafourche, that one who is a citizen of any one State shall be entitled to the same privileges in any other State. I do not believe in any such broad construction. If the State herself wants to make a distinction among her own citizens, and does so, others coming into the State have no right to complain. He might then challenge our right to exclude him. We exclude not only the naturalized citizen of the United States, but also all the naturalized citizens of Louisiana. It would then amount to the exclusion of the naturalized citizen, and there would be no discrimination, because we should all see at once there was no difference between those from other States and our own citizens. But the executive of the State, it is said, is to be entrusted with the power of commander of the army and navy of the State and United States, yet it is known that all foreign negotiations, the declaration of war, &c., are entrusted, by the constitution, to the general government. They have the power to make all foreign negotiations, to declare war, &c., and should war be declared, there is no probability of any naturalized citizen interfering in such case with our rights; for this reason I shall vote to strike out.

Mr. Brent said he desired to offer a few remarks on this important question. He considered it clear, that this State had no power to adopt the section now under debate, as reported by the committee. All would admit, even those who were most zealous in upholding the rights of the States that no State sovereignty had any right to destroy the effect of legislation by the federal government, when that legislation was authorized by the national constitution. This was the question at issue, and to this point he desired to direct a few observations.

The 4th paragraph of the 8th section of the 1st article of the constitution of the United States, declares that "Congress shall have power to establish an uniform rule of naturalization, throughout the United States." By this article the several States ceded to the general government all control over the subject of naturalization, and consequently any legislation which it may have adopted upon the subject must be regarded as paramount and supreme. Has this power been exercised by the general government, and if so, can its action be nullified and set at nought by the authority of one of the States? These are the enquiries which naturally suggest themselves to the attention of the Convention.

Uniform rules of naturalization have been established by the general government, and Congress has declared that immigrants to this country, who reside here five years and pursue certain formalities, shall be entitled to all the rights and privileges of American citizens. This legislation cannot be counteracted or countervailed by any exercise of power upon the part of the States. He who has the act of Congress and the judgment of a court in his favor, is to all intents and purposes an American citizen. His citizenship cannot be invalidated or nullified by any law emanating from a State authority.

It is true that this Convention has power to affix any qualification it pleases for him who aspires to the office of governor, with this reservation, that in so doing it does not make any distinction between American citizens. This the constitution of the United States expressly prohibits, for in the 2d section of the 4th article it declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. The language is clear, unambiguous and comprehensive. The object of it is, to place every American citizen upon the same footing of equality. The constitution does not speak of native or naturalized citizens, but its broad shield is

thrown over all who, by birth or by law, are entitled to the inestimable privileges of American citizenship. It issues its mandate to the several States, and it forbids them, with the strong voice of supreme authority, from enacting any distinction in favor or against the citizens of each particular State. Should you pass the clause now under debate, such a distinction would be created, and thus the fundamental law of the Union would be disregarded and trampled under foot. A native citizen from Mississippi, for instance, coming to this State would be eligible to the office of governor, but a naturalized citizen from any other State would be rejected and excluded from that office. Would this not be clearly creating a distinction in one State, between citizens of the several States? Could it then be said that the citizens of each State had been vested with the privileges and immunities of citizens in all the States? If not, then most undeniably and unequivocally, the State authorities of Louisiana will have violated and destroyed the integrity of the federal constitution. Other States may have usurped this power, but, Mr. President, (said Mr. Brent) I will never give my vote to sanction such an usurpation. I will cheerfully support the motion which has been made to strike out the clause requiring that the governor should be a native citizen of the United States.

Mr. Saunders thinks there is an error on the minds of gentlemen who have spoken on this constitutional question, as to our right to define the qualifications of our governor.

He views the language of the constitution in its literal sense, not in the broad sense which the gentleman from Rapides appears to do. The constitution does not say that a citizen of another State shall have a right to hold the office in any particular State. Why, if so, a citizen of Mississippi could be balloted for, and claim a right, if elected by the people of Louisiana, to be our governor. According to the view which the gentleman from Rapides appears to take of the matter, citizens of other States shall enjoy the same privileges and immunities they enjoyed in their own State. If so, a citizen of Massachusetts, coming here would have the right to vote as he voted under the laws of his own State. There, as in New York, negroes are entitled to vote, and if such doctrine prevail, negroes would have a right here. His reason for retaining the word "native" in the section, is simply because he thinks the governor should be a native born citizen in the time of war, which may occur at any moment. He referred to a certain former governor, who with all other good qualities, would have been placed in a dilemma in case we should have, in his term, been at war with France. No man can be expected to act with the same energy and fidelity against his native land as his duty would require of him. He therefore shall vote to exclude foreigners from the right of being governor of the State of Louisiana.

Mr. Brent rose to explain, but the President reminded him, that without permission of the house, he could not speak again on that subject, which being immediately granted, he stated that the construction placed upon his remarks by the member from East Feliciana, (Mr. Saunders) was incorrect; for no native or adopted citizen would be entitled to vote immediately on his arrival. He did not contend for any such principle; what he contended for was this, that we are expressly told by the constitution of the United States itself that no distinction shall be drawn between a native and an adopted citizen, in their rights and immunities. Whenever the foreigner has complied with the law of congress, the rights and immunities of each, shall be one and identically the same, and any other construction than this on the words of the constitution cannot be sustained.

Mr. Conrad then addressed the Convention: We all know, Mr. President, that birth and citizenship are not synonomous terms. We all agree that none but citizens of Louisiana shall vote, nor be elected governor. I cannot perceive how the clause in the constitution referred to, can have any thing to do with the question we are debating.

Mr. Preston rose not to detain the house for but very minutes, as they had kindly listened to him on a previous occasion when a similar principle was discussed. The only argument used is this, that the executive being now made commander in chief of the army and navy; that in the time of war a foreign born citizen would not, and could not do justice at such a time to the State. He thinks this argument en-

tirely futile and erroneous. In the first place, we ought not to take war or the possibility of war, into consideration in this case at all. We are moreover, not likely to have war for a long period to come, at least. The progress of civilization taken in connexion with the present civilized state of the world, will present the recurrence of wars. But suppose there were a war, who declares war? not this State; and suppose the case might happen, that in such an emergency, an adopted citizen should happen to be governor of Louisiana, and that his loyalty were doubted? a remedy for the case could easily be provided. When he becomes a citizen of the United States he renounces all allegiance to foreign countries. His feelings and his interests become identified with our institutions and our laws; he respects and obeys. It is constantly before his mind that he has exchanged a land of oppression for a land of freedom, and according to the experience I have had of the adopted citizens' feelings, I regard them as faithful and constant as that of any citizen amongst us. Besides, let me call your attention to the fact that during the revolution, and also during the last war, we called them into our ranks as officers and soldiers; and what instance have we ever had of their want of loyalty, courage or patriotism? None.

Then do not let us legislate upon a doubt. I conceive, (said Mr. Preston) that it would be a violation of principle. Young aspiring men there are in professional and planting interests (whom chance decreed should draw their breath in a foreign country,) there are, who ought not to be, must not be, prevented from the highest honorable aspirations. Again, suppose a man comes from Europe with a child two years of age, in due time the parent becomes a citizen, and makes a good one. By his labor and his usefulness he prospers, and in due course of time he sends that son to school, where my child also goes. They continue there together for years; his child is smarter than mine, he progresses faster, and finally becomes a man, much more intelligent than mine ever will be. His whole youth has been passed here, his whole interests are here, and have ever been here. Is it right to deprive that man of the same privileges my son enjoys from the mere accident of his not being a native born? It is unjust, it is invidious, and no principle like that ought to be entertained for a single moment. I hope, and I think, that the sense of justice of this Convention will induce members to vote as I shall, to reject the clause.

Mr. Grymes intended to pass by the matter under discussion without any notice, but in the course of the debate, he was amazed at the constitutional question, which had been raised by the member from Lafourche, (Mr. Beatty,) and argued and commented upon so strenuously by the member from Rapides, (Mr. Brent.) For the first time in my life, said Mr. Grymes, have I heard such ideas as are now advanced; there is no article in the constitution, which, speaking for itself; says that it has a tendency to deprive this State, or any other State, of the sovereign power to regulate the qualifications of officers in this, or any other State. Under several similar regulations in other States, it is now clearly settled, that each State has a constitutional right to define the qualification of electors, and further, to define what the qualifications of those who aspire to office shall be. It has been stated on this floor that there is no impartial or fair dispensation made in the pale of the constitution of the U. S., in support of the principles that we are contending for should prevail. What then are those principles? It is asserted on this floor that the 2d section of the 4th article of the constitution says, "that the citizens of each State shall be entitled to all the privileges and immunities of the several States." Now, Mr. President, how can impartial dispensation be had, unless those States who have never parted with their sovereignty shall have the right and privilege of regulating not only of their own domestic relation and affairs, but also the right of making a proper qualification for every officer in their government, beginning at the governor and thence descending to the most minor offices. But, sir, we have been told by the gentleman from the parish of Rapides, (Mr. Brent,) that after the luminous exposition he has given us of constitutional law, that no one can pretend to take the field against him on that question. For my own part, I am willing to pass by the constitu-

tional logic of the gentleman; and why, because I think that if he be serious in the principles which he has advanced, he will dispute the right of the State of Louisiana to meet and debate upon what shall be her organic laws of future government.

The next position that gentlemen have rung so many changes upon on this floor, is on the question of the expediency, whether we should or should not make any discrimination between those who were native born and those who were adopted citizens. I ask any gentleman here present, be he a native citizen or be he an adopted citizen of the United States, whether he can ever cease to love the country of his birth? If he does so, he is no advantage to this country, and is not fit to remain in it. If native born Americans could ever forget the soil on which they were born, disfranchise every one of them; cast them off sooner than the foreigners who come here, either for their interest or their pleasure. But, sir, that is impossible; no native born American that loves the country in which he was born, and glories in her free institutions ever can or will do so. Now let us look at the case of the foreigner; the laws of nature can never be reversed; God implants that sentiment, "the love of country in our hearts," and no sophistry, and no metaphysics can deprive him of those sentiments which the God of nature has made our natural impulse. What then would be the situation of the State of Louisiana provided we were to have a governor born in a foreign country in the time of war! A sudden eruption may not happen, but it has happened, and it may happen again. Can we expect that man to use all his energies? although he may not act overtly treasonably, or in any other way against the laws and institutions of the country; still is it to be supposed that he can ever forget the country of his birth? The voice of nature is louder than the voice of honor, and then what follows? The governor halts between duty and feeling, while the native born American citizen loving and cherishing the land of his nativity, steps forth at the first cry of invasion and defends her rights, and meets the invader's first footsteps. Suppose in the case of war we have in our governor a foreigner; no man doubts him either in his integrity or otherwise; he sits in his cabinet and appears to do all that is required of him under the law, and yet errors *may* creep into his proceedings which will be fatal not only to the interests of our own State, but also to the interests of our common country. To presume that "in nature, which in nature is not," is a mockery and a farce. Men coming from a foreign country cannot be politically born again, although they go through the form of naturalization in this country. This love of their own country holds them in thraldom and paralyzes their exertions when their own country is concerned. He (Mr. G.) regards the elevation of a foreigner to office as governor of the State of Louisiana, perhaps more to be dreaded than from any other reason (that he has yet advanced,) for the following:

In the first place let us imagine we had a German elected governor; second place, an Irishman; third place, a Scotchman; fourth place, an Englishman; and fifth place a Frenchman. Now then our community is made up of creoles proper. French creoles, native French, native Americans, Germans, Irish, Scotch, and English.

Well, if either of the above five different classes should be fortunate enough to have one of their tribe elected, what a rejoicing there would be; and why, because, as a matter of course, they would get all the offices among the countrymen and associates of the man elected. Some men advance the idea that no such thing could possibly exist; but those who have been watching the impulses of the human heart, and their natural tendencies, or the actions of men, will be at no loss to ascribe to them their proper position. You know that this world is made up of jealousies, and that it is a world of strife between man and man; and more especially in our Lousiana, it is so between the different sects of foreigners amongst us. These are proverbial truths and susceptible of every day's demonstration. Our State is filling up rapidly with Germans, Irish, Scotch and English, and the people of all nations. Is it to be supposed, that if we had a German governor he would forget his German brethren in the distribution of the offices within his gift? Certainly not; and if he did not do it, he would be a man who has no sympathy or fellow feeling with his countrymen. This is not doubted by them. They are attached to each other strongly by their

mother tongue, and their love of "fader and." So with the Irish, the English and the Scotch. The German then gives the offices within his gift to his brethren, the Germans. What a hubbub among the Irish, English and Scotch!!! The Irish governor distributes the "loaves and fishes" among his countrymen.

The Scotchman and the Englishman cannot be unmindful of their natural feelings, and then in such an event what is the result? Dissensions, difficulties, heart-bickerings steps in, and discord reigns throughout, and amongst whom?—why amongst the very people we profess it is our desire to serve. Now, sir, let us look at the other side of the medal. If there be a preference to be given in this question, it is to a native born American; and, sir, whenever you see in our country a native born citizen applying for an office, he occupies, as he ought to do, the first rank; and when *he* comes forward there is no disconent; the passions and the excitement of all the foreigners die away; and why? Reason tells them, common sense tells them, that the offices of the country and State in which they live naturally belongs to them.

The foreigner in such a case has nothing to appeal to to raise a cabal, a faction, or or party. All experience has shown that when that question is raised every tongue is silent.

The American character, however, for the last twelve years, has measurably been one of a yielding disposition, a kind of neutral character, hardly seeming to care who got the offices, as they had something better to attend to. Now, when the question and right is raised, you will find every young American at his post. But while I say this I say more, that distinguished and able foreigners will always be welcome, not only in Louisiana, but in every part of our common country, to share the posts of duty.

But, sir, shall we not have the poor consolation in Louisiana? Shall we not have one scintilla of American pride and feeling left? Shall we be deprived of one single item to hang on to, in making our new constitution? In a word, is the boon too great to ask at the hands of this Convention, that while the foreigners are cared for, especially in all else, in the offices and favors of the executive and judiciary, the *poor* American citizen knocks at your door, and asks you to reserve and protect one right, and at least give him one privilege; that this Convention will find it in their hearts to say no—I do not believe they will.

Mr. Soule moved to adjourn, desiring to address the Convention on this subject tomorrow.

The Convention then adjourned.

Friday, February 14th, 1845.

The Convention met pursuant to adjournment.

Mr. Walker, President, in the Chair.

The Rev. Mr. Warren opened the sitting with prayer.

Leave of absence was granted to Messrs. Covillion and Hynson.

Mr. Ratliff offered a resolution to authorize the committee on contingent expenses to pay the sergeant-at-arms thirty dollars, being for thirty days services of the boy Leon, hired by him, to clean up the hall used by the Convention. The resolution was adopted.

The Convention then took up the Order of the Day—being the same under discussion yesterday.

Mr. Soule having yesterday expressed his desire to address the house on this subject, would call their attention to a few remarks he desired to make on it.

The question yesterday debated has other important features, in the same section, which should recommend it to the rebuke of this house, and he desires to lay them before the Convention in such relief as will show the spirit in which they were conceived. He acknowledges that the matters which were under discussion yesterday, were very important, of sufficient importance to command the attention of and to excite the eloquence of the gentleman who then spoke. This question has already been presented in a different form. Then it was known how the members for restriction would vote. The question was the right of suffrage, in which was involved the question now agitated. The same spirit of jealousy which then existed now exists, and the attempt is now made to introduce the measure into debate, and to cover it with a seeming spirit of generosity, and they now desire to justify themselves and to make it appear that they do not wish to make a difference

between the members of this body and the citizens, and that they have no desire to bring nativeism into the question; but he rejoices that they have shown it to us in its naked deformity, by asking us to draw a line of distinction between one citizen and another. He has listened with an attentive ear to the arguments used in support of the section, but however eloquent and brilliant was the effect, it is nevertheless certain that powerful genius is powerless when opposed to the principle of truth, however much it may be sought to be disguised. He says it is impossible to vindicate this measure. As he said on a former occasion, "*without equality there could be no justice.*" This principle is not to be denied in a republican government; it is a primary right that all citizens shall be on an equal footing, and if that be correct he thinks he shall be able to show to the Convention that it does not fall within their power to divest any member of this social compact or partnership of any of the primary rights appertaining to him without his expressed consent. He feels great delicacy in his own position on this question, but hopes the Convention will do him the justice to believe, that, unless he had conceived that by his silence on the subject it would be supposed that he had been convinced by the brilliant oratory of the gentleman from New Orleans, he should have abstained from addressing the Convention, and been content to give a silent vote on the measure.

Neither the confidence with which the member from Assumption, (Mr. Taylor) had asserted that it was an incontrovertible truth, that we had the right to prohibit any particular class of citizens from becoming governor, nor the ingenious interpretation which the member from East Feliciana, (Mr. Saunders) sought to give to the federal compact in order to sustain this section, had been able to convince him. He has not dared to suffer himself to be carried away by the luxuries of fancy indulged in by the member from Orleans, (Mr. Grymes) in opposition to the arguments he appears so much to disregard.

Does the right exist to make a distinction between citizens of the same country?

This is the true, the only question to determine. Mr. Beatty, immediately after the candid and manly course of Mr. Dunn, insisted that it was unconstitutional; notwithstanding the arguments of the gentlemen of a contrary opinion, he (Mr. S.) thinks, that the doctrine of Mr. Beatty, of which Mr. Taylor admits the results, and of which doctrine the member from Rapides has so admirably maintained the principles, is the pure and sound doctrine; and that it is and was so regarded as well by the greatest statesmen of the past as of the present day, and that it has been considered the only tenable doctrine, by the ablest writers of the country. In retaining this odious feature in our fundamental laws, we are told we are but following the example of the framers of the federal compact.

Let us see how the States have sustained this doctrine. When the country was under excitement; when the two parties were fighting for power, even in the very halls of Congress, and when it was to be feared that some unholy feeling for one of two nations of Europe, should be the base upon which they would build their hopes of success for federal power, then the restriction was judged necessary that none but a native born citizen should be eligible to the office of president of the United States. But it is nevertheless true, that then, as now, this measure was considered an exception to the general rule, and it will not be denied that in that case more than all others, it showed the sanctity of the feelings of the framers of the constitution; for while it was a settled rule that all were equal, for the sake of expediency they engrafted the strange provision of depriving foreigners of that right. It was then determined that all citizens were equal, and were entitled to the same privileges, but policy, or rather the expediency of the moment, required that foreigners should be excluded from the highest office in the country. The framers of the constitution, after they had made this one exception, showed their wisdom by depriving the States of the power to do the same thing. Mr. Brent showed yesterday most conclusively to his mind, by reference to the precise words of the constitution, "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States;" that the framers of that instrument, most clearly intended to prohibit the States from following their example, by thus placing (except in that particular case) all the citizens of the republic on the same footing of perfect equality. The

gentlemen who differ with us in opinion maintain confidently the adverse position; that signifies nothing, said Mr. Saunders, (if I am mistaken in the gentleman's words I desire to be corrected,) it is nothing more than a guarantee that the citizens in every State shall have the right to acquire general rights under the constitution in the several States. He (Mr. S.) is bold enough to assert that such a construction is untenable; that it is a construction defying the spirit in which it was established; it is their construction and not ours; but for fear of error he will read the article again. (Here he read the article.)

Mr. Brent, with whom he (Mr. S.) shall vote on this question, clearly showed that the intention of the framers of the constitution was, that the citizens of one State should not be regarded as strangers in any other State, but that in all things they should be regarded as equal to the citizens of that State. Mr. Grymes affects to believe in this interpretation of Mr. Brent's, that the idea is a novel one, and indulged in a vein of humor and wit in endeavoring to rebut it; but wit and railery are not arguments. If any one has advanced a novel idea on this subject it is Mr. Grymes himself, and he (Mr. S.) will endeavor to prove it. The member from New Orleans, who first took the floor on this subject, endeavored to expound to the Convention that inequality was not thought of by the framers of the constitution. To maintain that position he had to presume that when that clause which I have cited was made part of the constitution, that convention had not even cast a thought on the naturalization laws; but could the honorable member have based an argument on such a supposition? The hypothesis is however excusable, particularly as it accorded with the principle he was defending. But in all the intercourse which it has been his good fortune to have with Mr. Grymes, and he acknowledges with pride and with pleasure that it has been considerable, he has had reason to know the candid nature and deportment of the honorable member. He is in hopes that he may yet convince him that he is in error in the views which he has advanced, and he feels confident that if he does so, he will change his opinions and vote as he (Mr. Soulé) will.

How, Mr. President, (said Mr. S.) could it have happened that the framers of the constitution lost sight of the laws of naturalization? We find in the constitution, first, a formal exception relating to the presidency; second, an uniform rule of naturalization for the whole United States. Therefore according to his (Mr. S.'s) mind it was clear that in the latter clause, they had it in contemplation to guard particularly against any further abuse of the exception contained in the first clause, on the part of the different States. The assertion was, however, made so clearly and positively here yesterday to the contrary, that he thought that either his memory or his judgment of the matter were at fault, and he now only returns to the question because he is convinced that he is right and the opposite party wrong.

It may perhaps have happened that the gentleman, looking at the constitutions of several other States, has conceived that it was really constitutional. This *corollary* would seem really plausible, and might reasonably create a doubt, had not the federal constitution itself shown its inapplicability, nay, its falsity to the views and principles laid down by the makers thereof. Those wise statesmen looked to the time, when for the want of information, or from tacit submission on the part of the people, through their delegates, that State governments *would* violate the federal compact. And to whom did they confide the power to restrain? To the judiciary.

In the 6th article of the constitution you will find these words: "This constitution and the laws of the United States which shall be made in pursuance thereof, shall be the supreme law of the land. The judges in each State shall be compelled to conform thereto, any constitutional or legal provisions made in the laws of any other State to the contrary notwithstanding."

It was to prevent this evil, the evil of some of the States, who would or might abuse the power vested in them, and considered by them as sovereignty, introducing foreign matter into their constitutions, that the remedy was provided by the framers of the constitution of the United States.

The principle now contended for is abhorrent to the first principles of republican government.

The judges of the United States courts can pay no attention, and will not, to any

section of a constitution which we may make, or which the people of Louisiana may ever see proper to ratify. And where is there a more odious or detestable principle than that which makes an abuse of power a constitutional right?

States will deviate sometimes, legislatures likewise; but judges are still left to bring them back "*nolens volens*" to the supreme laws of the land. Away, then, with the authority they so much rely upon as to the conduct of the other States upon this point, to influence us! Perhaps those States who entered into the confederation have some weight in their reasons; while those who entered the union before we did, evidently are no authority for us, as they were the opinions of widely different characters from them of the present day. And yet he (Mr. S.) is at a loss to conceive why the authority of two or three States should be consulted paramount to that of so many other States, twenty at least. In order to state this question fairly, there are six States whose constitutions contain the provision sought to be engrafted on ours, viz: the States of Arkansas, Missouri, Alabama, Virginia, New York and Maine. What? with twenty-six States entered into this federal compact, all having in view, and before their eyes, the constitution of the general government; while twenty reject the odious measure proposed to us; and six inflict the wrong; shall we be told that we ought to add one more to the restricting States? No, wisdom forbids it, justice forbids it. He felt that he had said enough on this point; if experience, the experience of other States, and the authority of some of our greatest men in the union can have weight, surely he had said enough, in endeavoring, as he had, to express their opinions and sentiments. God forbid that placing all on a footing of equality, we should hesitate to choose between the wisdom of twenty states, and the intemperance of six.

Let us now pass to the most important question of this debate; and let us see whether the principles advanced by Messrs. Conrad, Grymes and Saunders, be or be not correct; that when the framers of the constitution inserted in the federal compact the article on the naturalization laws, they did or did not have in view such a case as is now before us. Now, he (Mr. S.) contends that they had just such a case in view. We must not dupe ourselves by imagination; and there is no one but is bound to admit that we cannot sanction such a principle as is contended for, without trampling that sacred instrument, the constitution of the United States, under foot. Whenever it was acknowledged by the States, that the federal constitution was the supreme law of the land, that power invested in the hands of, and granted to congress, became an exclusive privilege. Mr. Grymes denies this, and affects to treat it as a new idea, and extraordinary. It may be so—but the authors of the federalist, whom I must regard, (despite his great regard for the opinion of his friend, Mr. G.) as the best authority, do not seem to agree in opinion with the idea advanced by Mr. G, on this question.

By referring to page 231 of the Federalist, we find the following remarks on this interesting subject:

"The dissimilarity in the rules of naturalization has long been remarked as a fault in our system, and as laying a foundation for intricate and delicate questions. In the fourth article of the confederation it is declared, that the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of *free citizens* in the several States, and the *people* of each State shall in every other, enjoy all the privileges of trade and commerce, &c. There is a confusion of language here, which is remarkable. Why the terms free inhabitants, are used in one part of the article; free citizens in another, and people in another; or what was meant by superadding "to all privileges and immunities of free citizens"—all the privileges of trade and commerce, cannot be easily determined. It seems to be a construction scarcely avoidable, however that those who come under this denomination of *free inhabitants* of a State, although not citizens of such State, are entitled, in every other State, to all the priviliges of free citizens of the latter; that is to greater privileges than they may be entitled to in their own State; so that it may be in the power of a particular State, or rather every other State is laid under a necessity, not only to confer the rights of citizenship in other States, upon any whom it may allow to

become inhabitants within its jurisdiction. But were an exposition of the term of inhabitants to be admitted, which would confine the stipulated privileges to citizens alone, the difficulty is diminished only, not removed. The only improper power would still be retained by each State, of naturalizing aliens in every other State. In one State, residence for a short time, confers all the rights of citizenship; in another qualifications of greater importance are required. An alien, therefore legally incapaciated for certain rights in the latter, may, by previous residence only in the former, elude his incapacity: and thus the law of one State, be preposterously rendered paramount to the law of another, within the jurisdiction of the other."

"We owe it to mere casuality, that very serious embarrassments on this subject have been hitherto escaped. By the laws of several States certain descriptions of aliens, who had rendered themselves obnoxious, were laid under interdicts inconsistent, not only with the rights of citizenship, but with the privileges of residence. What would have been the consequence, if such persons by residence or otherwise, had acquired the character of citizens under the laws of another State and then asserted their rights as such, both to residence and citizenship within the State proscribing them? Whatever the legal consequences might have been, other consequences would have resulted of too serious a nature not to be provided against. The new constitution has accordingly with great propriety, made provision against them, and all others proceeding from the defect of the confederation on this head, by authorizing the general g overnment to establish a uniform rule of naturalization throughout the United States."

In another part, viz: on page 164, we find these words, which clearly shews the States had no right over the matter. "This must necessarily be exclusive because if each State had power to prescribe a distinct rule, there could be no uniform rule."

Under the old constitution, provision similar to that of the actual constitution had placed the old States on a par, each State having the right of making their own laws of naturalization and many of their constitutions sanctioned just such provisions as they are now trying to fasten on to our constitution. The framers of the constitution of the United States, in order to put an end to this conflict, decreed, that Congress alone should be invested with the power to regulate it. What then are we doing here? we certainly have not the right to disfranchise all citizens or any citizen who has under the laws of Congress, acquired as many rights as we ourselves have, and yet it is sought to be done, and under the garb of this very law we rely upon. The doctrine we contend for is not a novel doctrine, it is a doctrine established and perfected when the constitution of the United States was made.

The confident assertions however to the contrary, made him, (Mr. S.) more than doubt whether the great Hamilton, and other eminent statesmen, bore him out in his view of the question, and he was again compelled to resort to authority and either give way to the eloquent speech of Mr. Grymes, or still further to adhere to the doctrine laid down by Mr. Brent.

He has examined every work extant, that he knows of, treating on this subject, for anything that could change the Convention or his mind, but has not been able to do so, on the contrary he is more and more satisfied, that the States have no power over the matter, and that it rests exclusively with Congress. Hear what Story says in relation to it.

In the third volume, first page, paragraphs, 1097, 1098, 1099, read thus:

Sec. 1097. The next clause is, that Congress "shall have power to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States."

Sec. 1098. The propriety of confiding the power to establish an uniform rule of naturalization to the national government seems not to have occasioned any doubt or controversy in the Convention. For aught that it appears on the journals, it was conceded without objection. Under the confederation, the States possessed the sole authority to exercise the power; and the dissimilarity of the system in different States was generally admitted, as a prominent defect, and laid the foundation of many debate and intricate questions. As the free inhabitants of each State were entitled to all the privileges and immunities of citizens in all the other States, it followed that

a single State possessed the power of farming into every other State, with the enjoyment of every immunity and privilege, any alien, whom it may choose to incorporate into its own society, however repugnant such admission might be to their polity, conveniencies, and even prejudices. In effect every State possessed the power of naturalizing aliens in every other State; a power as mischievous in its nature, as it was indiscreet in its actual exercise. In one State, residence for a short time might and did confer the rights of citizenship. In others, qualifications of greater importance were required. An alien therefore, incapacitated for the possession of certain rights by the laws of the latter, might, by a previous residence and naturalization in the former, elude at pleasure all their salutary regulation for self-protection. Thus the laws of a single State were preposterously rendered paramount to the laws of all the others, even within their own jurisdiction. And it has been remarked with equal truth and justice, that it was owing to mere casualty, that the exercise of this power under the confederation did not involve the Union in the most serious embarrassments. There is great wisdom, therefore, in confiding to the national government the power to establish a uniform rule of naturalization throughout the United States. It is of the deepest interest to the whole Union, to know who are entitled to enjoy the rights of citizens in each State, since they thereby, in effect, become entitled to the rights of citizens in all the States. If aliens might be admitted indiscriminately to enjoy all the rights of citizens at the will of a single State, the Unio might itself be endangered by an influx of foreigners hostile to its institutions, ignorant of its powers, and incapable of a due estimate of its privileges.

Sec. 1099. It follows from the very nature of the power, that to be useful, it must be exclusive; for a concurrent power in the States would bring back all the evils and embarrassments, which the uniform rule of the constitution was designed to remedy. And, accordingly, though there was a momentary hesitation, when the constitution first went into operation, whether the power might not still be exercised by the States subject only to the control of congress, so far as the legislation of the latter extended, as the supreme law; yet the power is now firmly established to be exclusive. The federalist, indeed, introduced this very case as entirely clear to illustrate the doctrine of an exclusive power by implication, arising from the repugnancy of a similar power in the States. "This power must necessarily be exclusive," says the authors; "because if each State had power to prescribe a distinct rule, there could be no uniform rule."

This language is clear and precise, and distinctly says, that when a citizen acquires a citizenship in any one State, he is entitled to the same rights and privileges as are the citizens in any and all the other States. Thus far, the authority goes to show that the States had no right to infringe on the privileges thus left exclusively with congress;—and he, (Mr. Soulé,) thinks this section of the constitution passed, in view of the very emergency, we are now placed in, with regard to naturalized citizens, Story, so thinking, expresses himself in vol. 3, pp. 673, chap. 40, paragraph 1798, 99, 1800.

Sec. 1798. The fourth article of the constitution contains several important provisions, some of which have been already considered. Among these are the faith and credit to be given to State acts, records and judgments, and the mode of proving them, the effects thereof; the admission of new States into the union, and the regulation and disposal of the territory and other property of the United States. We shall now proceed to those which still remain for examination.

Sec. 1799. The first is, "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." There was an article on the same subject in the confederation, which declared "that the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall, in every other, enjoy all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively," &c. It was remarked by the Federalist that there is a strange confusion in this language. Why the terms *free inhabitants*, are used in one part of the arti-

cle, *free citizens* in another; or what is meant by superadding to "all privileges and immunities of free citizens," "all the privileges of trade and commerce," cannot easily be determined. It seems to be a construction, however, scarcely avoidable, that those who come under the denomination of *free inhabitants* of a State, although not citizens of such State, are entitled, in every State, to all the privileges of *free citizens* of the latter; that is, to greater privileges than they may be entitled to in their own State. So that it was in the power of a particular State, (to which every other State was bound to submit,) not only to confer the rights of citizenship in other States, to any persons whom it might admit to such rights within itself, but to any persons whom it might allow to become *inhabitants* within its jurisdiction. But even if an exposition could be given to the term *inhabitants*, which would confine the stipulated privileges to citizens alone, the difficulty would be diminished only, and not removed. The very improper power was, under the confederation, still retained in each State, of naturalizing aliens in every other State.

Sec. 1800. The provision in the constitution avoids all this ambiguity. It is plain and simple in its language; and its object is not easily to be mistaken. Connected with the exclusive power of naturalization in the natural government, it puts at rest many of the difficulties which affected the construction of the article of the confederation. It is obvious that if the citizens of each State were to be deemed aliens to each other, they could not take or hold real estate, or other privileges, except as other aliens. The intention of this clause was to confer on them, if one may so say, a general citizenship; and to communicate all the privileges and immunities which the citizens of the same State would be entitled to under like circumstances.

Such being the doctrine of Story, he thinks it puts the question at rest. He considers it connected with the naturalization laws. It is the language and it is the spirit of the constitution and the settled policy of the country. Who then doubts we have properly considered the construction of this clause of the constitution of the United States? Who now doubts that this restriction would be a flagrant violation of the national compact?

There are other features connected with this restrictive measure, worthy of consideration, which render it still more odious. Is not the ground taken by Mr. Grymes, the ground of expediency, proof positive, an acknowledgement on his part of want of argument or reasons to sustain him in the ground which he takes? He (Mr. S.) thinks it is; for certainly it can form no part of our duties, nor have any effect in regulating the power with which we are confided. We are here to legislate not for an hour, a day, a week, nor for half a century. We are here for the purpose of raising a political foundation that shall ensure the political rights, the happiness and liberty of generations to come. We cannot be too careful, therefore, in yielding to our feelings on the ground of expediency. We are here to lay the corner stone of our public security, and to remove those defects in the constitution of 1812, which thirty-two years' experience have made clear to the people of Louisiana. But we are to do this, work with candor and without prejudice; and we must show to future generations that in forming a constitution by which they were to be governed, that we were not actuated by the transient and evanescent expediency of the moment. We must show them that we lost sight of party spirit at the moment, and we only desired to give them a constitution based on the immutable principles of truth and justice, equal rights and equal privileges. And yet we are told that expediency requires that the governor of Louisiana should not be a foreigner. This language shows a deep-rooted feeling, on the part of the opposers to it, which cannot be disguised. Whence comes this feeling? Even in his, (Mr. S's) time, he recollects things which appear as yesterday to him, foreign to the question of native born and adopted citizenship. Other matters and other names occupied public attention, and other men were then the victims of the hour. Is it because the times are changed, that we have to seek new subjects to emulate on the altar of prejudice? Be it so, attempt to enforce the spirit of persecution. The times are not far off when, yielding this question, it will not only embrace the limits of the State, but will gradually come down to districts, then to parishes, then to towns, and finally we shall be told that we must choose our go-

vernor or representatives from such a plantation.

Here Mr. CLAIBORNE called Mr. SOULE to order, as in his opinion he was giving to the debate an unwarrantable latitude, and was impugning the motives of members of the Convention.

Mr. SOULE did not intend to impugn the motives of any one; nor was he aware that he had said any thing which could be so construed, at any rate nothing was farther from his mind in any remark he had made.

Mr. GARCIA had listened attentively to Mr. SOULE, found nothing objectionable in his remarks, and was of opinion he was not out of order, this appeared the general opinion of the house, &c.

Mr. SOULE proceeded. He was not aware that he had done more than relate the history of the past; and as no bad feelings rankled in his bosom, he could not imagine how his analysis could have given offence to the president. It is in the nature of the spirit of restriction to become daily worse. If to day it is permitted to restrict the privileges of naturalized citizens, in a short time the same feeling will be pursued towards citizens of other States, then to some particular class of native born citizens of Louisiana, then another, until finally it will be limited to a single sugar plantation. Mr. Grymes' reasoning would go to show that a native born citizen is a supreme being to an adopted citizen; if that be so, why is not a Louisianian superior to the citizens of another State? And then why not one class of Louisianians better than another class? By such restriction you will bring about confusion and discordance, and you will *annihilate love of country!*

In the mandate of the people we are told (and it cannot be denied) to "*extend the right of suffrage.*" But of what avail would that be, if the principle of restriction prevail? we must tell them at the same time, "you can only elect one or the other of 12 men for your governor;" if 12, why not any other number? Such a doctrine does not conform to the true principles of democracy —it is not founded on truth or justice.

Mr. GRYMES has told you that if this motion to reject does not prevail, you will have placed in the hands of an adopted citizen, as governor, powers that may clash with *his nature and his duty.* For arguments sake, let us admit it. The framers of our United States constitution, and the report of the committee which we are now debating, have fortunately placed before our eyes and within our grasp, *the evil* and *the remedy.*

The members of this Convention, comprising the committee on executive affairs, had wisely reported so that the least possible evil should be met by the greatest possible good. Well, the constitutional power, determined recently to be such as should guide this Coonvention in admitting, "that in case of a war, the governor cannot and shall not command our military forces without the advice and consent of the legislature," (and Mr. S. thinks that provision would have never left the governor in a false position,) has been stricken out. I will not say who did strike out that provision now, nor why it was stricken out; the parties who are intimately connected with the subject on the other side will understand my meaning.

The question is, have we acted wisely in removing the guard which had been placed on the constitutional powers of the governor, in a military point of vlew? the power which would have prevented abuse on the part of foreigners, (or *the foreigner* who might have popularity enough to be elected governor,) was taken away from the constitution by the member from New Orleans himself, and then when the guard is removed, he tells you of it himself, but will not tell you, 't'was I that did it.'

We have been asked what would be the situation of a naturalized citizen acting as governor of Louisiana, and we at war with the country of his birth? He could well retort by taking in his hand the history of the American revolution, and ask who were the only traitors during that eventful period? He would not soil his lips with their names; they were not, however, adopted citizens. He has the warmest feelings, the warmest affections for the native born Americans, and will have always his best wishes; and in all cases where they seek office if they have equal qualifications, his support, in preference to any naturalized citizen.

He can only say in reply to the gentleman from New Orleans, that, if, contrary to all probability, any naturalized citizen should be at the head of our government, and who at the moment' of danger should halt between duty and feeling, he does not

hesitate to say he would be hurled from power; or he would be compelled to rush forward to the battle field, crying with the knights of old, of his (Mr. S.'s) native country, "Fais ce que doit, advienne que pourra."

He conceives that all naturalized citizens, not only by duty, but by inclination, would uphold the rights and liberties of his country in any emergency; they come from a land of oppression to a land of liberty, and there are few men who cannot appreciate the difference; and feeling it, will help to maintain the rights of freemen of this land of their choice and their adoption. Mr. Grymes' last argument was predicated upon the evils that would ensue from the election of a naturalized citizen as governor, in time of peace, and took it for granted that the loaves and fishes which governors have it in their power to distribute, would be distributed among his fellow countrymen; and that he would do so must be taken for granted, or he would not otherwise follow the natural feeling of his heart.

He agrees with the gentleman thus far, that whenever there is an office to bestow, and the native born citizen is qualified for it, he ought to have it, he is entitled to the preference, but without equal ability and equal capacity, he does not agree with the honorable member that he shouid have any preference, and he feels confident that any naturalized citizen whom the people might so far honor with their confidence as to make him Governor, (notwithstanding the opinion expressed by the member from New Orleans,) would strictly follow this just rule; but if the naturalized citizen be the most fit, the most capable, he would deprecate the policy of giving the office to another because he was native born. The rule could not be applied with justice. Make your laws if you will, so as to prevent foreigners becoming citizens but when you have admitted them as members of the same social compact, they must be on an equal footing with the natives. Our feelings should always be governed with equality; the provision of the section now before us, is not to guard, and protect those rights, but the very contrary, to destroy them. But gentlemen forget while they are so strenuous for what they conceive to be due to the native born citizen, that duty which they owe to the people as a whole. I say the whole people because the number of naturalized citizens who could or would aspire to the office of governor, is so small that the wrong done to them would be scarcely felt and if alone on their account I might withdraw my opposition to the section, but by sustaining it you deprive the whole people of their franchise—you deprive them of the right of extending that franchise, you restrain them, you set the limits on them; and by setting limits on their choice, the people may be restrained to choose their governor, from perhaps the least capable of our citizens.

There are gentlemen who are constantly crying out the danger of repeated Conventions, of the impolicy of making constitutions upon constitutions. Let those who are so deeply impressed with that danger, then beware; for it is not by going contrary to the will of the people that the evil can be remedied. The people know what they want, and if you disobey their mandate, they have the power to right themselves, and they will do it: if we, instead of obeying their mandate, obstinately persist in pressing restriction after restriction upon their rights and privileges, instead of extending the right of suffrage which we are here for; we forget our duties, and labor in vain, for the people will strike a death blow to all our labors, and the constitution will never be ratified. It seemed, sir, to cause some surprise, that I should have asserted that the restrictive system sought to be forced into our constitution was odious in every possible way.

Sir, the spirit of restriction never stops; they are not content with depriving the naturalized citizen of his rights, but they go further, and make another distinction between that class of citizens who became so prior to the treaty of cession; they make a difference between the citizen of 1803 and 1812, which are now confounded with those from 1812 to 1845. The committee do not wish to include in the exclusion those who came in under the treaty. Odious as is to me the principle of excluding any class, the idea of granting special privileges to any one portion of naturalized citizens over another portion of them, is a thousand times more odious. The injustice of it is not the most odious part; it is repugnant to the very letter, to say nothing of the spirit of the constitution of the United States.

The 9th section of Article 1 reads thus:

"No bill of attainder, or expost facto law, shall be passed." Congress has no power to pass such a law; the highest, the most important consideration forbids them—the organic law of the land. Surely, Sir, *we* can have no power then, to do what *they* are expressly forbidden to do. The foreigner, when he becomes a citizen of the United States, forswears allegiance to all foreign powers; he binds himself to the country of his adoption; he makes a contract of political association, and when he takes the oath which is unalienable, he becomes vested with all the rights of citizenship, and he cannot be deprived of them. In this section, you deprive all who have become citizens since 1803; you deprive them of one of the privileges secured them by the constitution and laws of the land. Can you do so? You cannot; and if you do, not all the eloquence, nor sarcasm, nor sophistry, which has been resorted to, in aid of the odious measure, can strip it of its true character—an unjust and outrageous violation of the constitution of the U. States.

Gentlemen say, you have the right to do this. I deny it. You may wonder at my boldness, but I tell you the highest tribunal in our land has settled the question, (the Supreme Court of the U. S.,) and I specially desire to call your attention to the case of the Dartmouth College, *vs.* the State of Massachusetts. That college received its charter from the king of England. After Massachusetts became one of the United States, a resolution was brought into the legislature modifying some of the clauses of the charter, and making sundry other rules for the government of the college; that resolution passed, but the original trustees thinking it was a stretch of power, resisted the law, and carried the case up to the Supreme Court. The decision was in favor of the trustees of the college, on the ground that no State or individual had the right to do any act that could impair the faith of a free existing contract. Why, then, have we the right to take away the vested rights of naturalized citizen? Rights acquired under the constitution and laws of congress made in pursuance thereof? We cannot do so, and I defy you or any man to show me the shade of an argument or reason for such an assumption of power.

Here the honorable member said that his physical strength would not allow him to proceed, and kindly thanked the house for their patience and indulgence in listening to his remarks.

Mr. Benjamin rose to address the Convention on this question with some embarrassment, which, however, was alone caused from not having had the pleasure of listening to the arguments from the beginning of the discussion, as he was compelled to be absent yesterday during the greater part of the debate.

He has listened to the eloquent remarks that have to-day been made, with much pleasure; and congratulates the honorable gentleman, not alone on his forensic ability, but because he has said and embraced in his speech all that can be said on that side of the question. I feel, Mr. President, that it is a duty which I owe to the members of this Convention, to the members of the committee who made the report which is now under consideration, to state here plainly, openly, clearly, that it was at my suggestion that the word "native," (the gist of controversy,) was inserted in the section now before us for our consideration. If, therefore, sir, there be censure to be cast upon any one, for that apparantly objectionable word, upon my shoulders it must in justice fall. It becomes then, I conceive, a part of my duty to reply to the arguments offered by the honorable delegate who last addressed you; and to the best of my humble ability to endeavor to refute them.

The very able and eloquent address which he has made you, comprises, not alone all his own views on this subject, but without doubt includes all that has been advanced by other members who agree with him in opinion. Consequently the few remarks with which I shall trouble the Convention, will be taken, (as I desire they should be,) as my reply to all that has been advanced by those who are opposed to the principle which I desire to see established in our organic laws.

The honorable gentleman, (Mr. Soulè,) had scarcely commenced his remarks on this question, ere he thought proper to rebuke the spirit of this provision, and ascribed to us feelings that ennoble no man. He is mistaken, greatly in error, if he supposes that the section under consideration was ever conceived or thought of, under what he pleases to term the doctrine of "nativeism."

I ask the gentleman to show, if he can, where, how, and in what manner the native born American has ever shown any jealousy towards his naturalized brother-citizen. Look at the history of the country, and point out to me, if you can, a single instance where any such feeling has been known to exist. Nor, sir, have we done any thing in this hall, that I am aware of, either in discussing the rights of suffrage, or in any other way, that should render us liable to censure, on the part of either our brother-delegates or our constituents.

How have we invaded or restricted the rights of the naturalized citizens? Have you deprived him of the rights which he has constitutionally acquired? Have you placed him, heretofore, on a different footing from the citizens of our sister States? Are not all on the same footing? Then what becomes of the assumption that we have restricted them in their rights? When they can show me that, then I shall be willing to acknowledge that I have been mistaken in the previous acts of this Convention.

So far as I understand the action of the Convention up to this time, it is that we have said we deem it essential that no man shall have a voice in our elections who has not been here for the period of two years.

The position advanced by some of the members on this floor, on a recent occasion, that political residence could be acquired by aliens, is to his, (Mr. B.'s) mind, an absurd one; and we did not then fail so to express ourselves fully and sustain the falsity of such a doctrine. How then stands the case?

They assumed that principle; we denied it—and what was the action of the Convention on the subject? Why, they decided simply that an alien could not acquire a political residence. What then becomes of the charge that we have attacked the rights and privileges of the foreigner? Where then is the odious restriction which, trumpet-tongued, we have so repeatedly been charged with, by the honorable member, as endeavoring to fasten upon the foreigner? We have respected their feelings, and have in all respects harmonized with them as with our American brethren. Do those gentlemen think, who profess so much zeal here, and pretend to so much love for the foreigner, that they are alone in their feelings of gratitude to those foreigners who, in the hour of our country's need, came to our aid? No sir. All Americans feel it. But feeling it and acknowledging it, as I am willing to do, that we are indebted to them for that service, is that a reason why we should place ourselves politically at their mercy? Is that a reason why we should deliver ourselves, bound hand and foot, over to them, that they may obtain the mastery over us in our own government and of our own institutions? For my part, sir, I shall forever oppose any measure, come from what quarter it may, that will tend to take from the hands of the American people the reins of their own government.

The honorable gentleman in adverting to the primary rights with which all American citizens are vested, endeavored to illustrate his argument by making a comparison between the common partnerships of individuals and the political partnerships of naturalized and native born citizens, and tried to show you, as an argument, that they were equally concerned in the welfare, or misfortunes of the government, and had to contribute, if necessary, their quota to its wants. For my part I cannot conceive there is any analogy in the two cases, and if there were, the gentleman's argument would not be aided by it, for it frequently happens in partnerships for business that it is mutually agreed that one of the partners is alone and solely charged with the government of the partnership affairs.

But, sir, I deny the gentleman's premises, I deny what he has been pleased to term an axiom, that all men are entitled to equal political rights, and that we have no power under our mandate from the people, to circumscribe those rights. If such were the case, sir, whence have we derived the power upon the restrictions as to residence, color, age, which we have already imposed without our right to do so being questiond? If the gentleman's argument be correct, it should hold good throughout, but its error is evinced when it is carried to its extreme, and its falsity is proven by a complete *reductio ad absurdum*.

Sir, scarcely a provision of any kind can be proposed in this hall without an outcry about "restriction." Every measure proposed is at once attacked as a "re-

striction" upon the people. Allow me to ask for what pupose we are here? Is it not to make a constitution? And what is a constitution except a system of rules and *restrictions* intended to secure a permanent government, which shall be unaffected by the changing views and passions of the hour; which shall *restrict* majorities and protect minorities? If the people are to be governed without *restrictions* at all, as some honorable members would seem to insist, what a farce are our proceedings? Why not, on every question that shall arise, assemble the people in your public square and let the majority decide? Surely, sir, this is no correct view of our mandate or our duties; and since every right thinking man must admit that some guards and restrictions must be imposed on the people, in every constitution, let gentlemen prove when a restriction is proposed that it is in-opportune or inexpedient, and not content themselves with merely exclaiming against restrictions. Sir, gentlemen who push their arguments to these extremes are not the true friends of popular government.

It was well remarked the other day in debate, by an honorable delegate from New Orleans, (Mr. Grymes) that a government may become so popular as to be no government at all. An absence of all restrictions, leaves of necessity, power in the hands of the strongest or in other words, reduces society to anarchy; and yet when we endeavor to avoid this result by guarding our government, our institutions, and the prosperity of our country from danger, honorable members reply by accusing us of a bias towards aristocracy or monarchy. The question under discussion has been presented on two grounds, both of which I shall endeavor to treat—1st, have we the power; 2d, is it expedient to insert this provision in our new constitution.

The gentleman has roundly asserted that this State has not the constitutional power to prescribe, as a qualification for governor, that he should be a native born citizen of the United States. This, sir, is indeed a novel, and I may be allowed to add, a startling remark from a gentleman so learned and so eminent in his profession as the honorable delegate from New Orleans. I can say, sir, with truth, that having grown up from my earliest youth under the institutions of the country, having been compelled to make them my special study in the practice of my profession, and having the right to say, without I hope being accused of presumption, that they are familiar to me, I never till this hour heard a doubt suggested as to the constitutional power of a State to prescribe the qualifications required for holding office in its government.

On what can the opponents of so plain and so clear a right, base their opposition? Surely not on the paragraph which has been quoted from the constitution, that "the citizens of each State shall enjoy all the privileges and immunities enjoyed by the citizens of other States," for who denies the rights of citizens of other States as hereby guaranteed to him? If any one, I am not aware of it. It does not, however, follow that we are to admit all the arguments the gentleman draws from these premises. The constitution does not say, that in consequence of his being a citizen of the United States, and of another State, that he shall be vested thereby with the right of an elector in every State, nor that from that cause he shall possess a qualification for any of the public offices in the State government without complying with the requirements of the laws of such State.

Such a proposition as that now advanced is really too absurd to come from so respectable a source. If that doctrine be sustained, why, Sir, a citizen of Mississippi may cross your border to-morrow, place his name before the people, and if he gets votes enough may insist upon his right to take the gubernatorial chair. And can it be possible that gentlemen think they can meet this question by the argument drawn from an examination of the constitutions of our sister States? Those who preceded me on the same side showed as authority a similar provision in the constitutions of six States, and urged this fact to show that the power had never been questioned. To this the honorable delegate replies that nineteen States have no such provision in their constitutions, and he infers from this that the framers of these constitutions believed they did not possess the power of inserting such a clause. This is indeed a most extraordinary inference. Surely, Sir, the absence of such a clause in those constitutions, proves nothing more than that their framers deemed it inexpedient to insert it. Since, however, *authority* is desired upon this

question, to me so plain as to admit of no dispute, let us examine authorities and see which side they lend their weight. Among the States which have adopted this so-called *odious* restriction in their constitutions is the State of Virginia. In the year 1830, a convention was called to alter, amend or remodel the old constitution or adopt a new one, as in their wisdom to them should seem fit. That Convention, Sir, numbered among its members some of the ablest men ever known in this Union. Mr. Munroe, who served as president of the United States for two terms, then presided over that body. Mr. Madison who had also been president of the United States for the same period of time, who moreover had a hand in the making of the first constitution of Virginia, and also in the making of the sacred instrument, (which we are now accused of endeavoring to render nugatory) the constitution of the United States; and Mr. Marshall, who so long and so ably filled the office of chief justice of the United States, were members of that body.

In that constitution, so made by the aid and advice of these same men, it is provided that no person should be governor of Virginia, unless he was—1st, thirty years of age; 2d, a native born citizen of the United States at the adoption of the constitution; 3d, that he must have resided five years in the State before eligible. And, Sir, are we to be told that such men as Madison, one of the framers of the constitution of the U. S. himself—Monroe, who had for years been administering the laws under that constitution as president of the United States—and Marshall, who for upwards of thirty years, had presided on the supreme bench, did not understand the constitution of their country; and that they engrafted an unconstitutional provision in the constitution of Virginia? Are we to be told that such men, full of experience, of vast and profound learning, as pure men as ever lived in this country, whose names and fame are without spot or blemish,—are we, I again ask, to be told that they voted for the insertion of a clause in the constitution of their own beloved State, which the honorable delegate from New Orleans represents as a palpable violation of the constitution of the United States? Between such authority and the authority of the honorable gentleman, much as I value it on other occasions, I cannot pause; and if I err, I can only say I am glad to err in such company. And even had my impressions been different from what they are, I should with such authority before me have questioned my own judgment and yielded my own opinions. But we do not rely on that authority alone. We have, we think, evidence of a more imposing and more important character yet to offer. It is the action of the congress of the United States on this very question. Several of the States who have engrafted the so-called odious provision in their several constitutions, viz: the States of Arkansas, Missouri, and Alabama, were not members of the old confederation of thirteen States; they came into the Union long after. Each one of these States was compelled to submit its constitutions to the congress of the United States, that the same might be by them examined to see that no clause or provision was inserted therein that should clash with any of the provisions of the constitution of the United States. Now, see what we do see? why, that congress has sanctioned these several constitutions, and admitted the States named into the Union with this terribly odious provision in them. Shall we, Sir, say that thrice the representatives and senators of the whole country, the presidents of the United States, have obstinately maintained an unconstitutional right to be a constitutional one? Shall we say that they have thrice been the dupes of their own ignorance, and the enemies of the constitutional rights of their own countrymen? One would almost be tempted to smile at the idea, were this not so serious a question.

In a word then, sir, I assert that our power to insert the clause disputed, is not a doubtful question; that we have the power to do so constitutionally, and the only question we now have to decide is, is it expedient for us to do so? My own impression is, that we should unhesitatingly insert it, if we study our own interests. When I first proposed to the committee to insert it in the section, it was a natural instinct that prompted me to believe that it was necessary. Since then I have given the subject calm and serious deliberation, and I have daily, nay, hourly become more and more convinced of the necessity and propriety of the measure. Sir, I have listened with delight to the eloquent eulogy

pronounced by the delegate from New Orleas on the brave men who lent us their aid in 1815—on Savary, St. Gemes, and their associates—I have witnessed, in imagination, the memorable scenes so graphically and eloquently described by the honorable gentleman from Rapides, (Mr. Brent) and I have felt my heart glow with feelings of gratitude towards the brave and generous men, who, amidst the smoke and carnage of battle, breasted the British bayonets, and, side by side with American citizens, perilled their lives in our country's cause—honor and gratitude to them all?—and I will yield to no man in expressing on all occasions, and in all suitable manner, the acknowledgements that are due to their eminent services.

But, sir, let us not allow our feelings to obtain the mastery over our judgment. Those brave men were the sons of France, and the enemy was the hereditary foe of France. Sir, does the gentleman, can any man believe, that if our invaders had been French, these gallant men would have gone to battle against their countrymen. Sir, they would have recoiled with horror at the fore-thought with the same instinctive abhorrence as if called on to smite the cheek of the mother that bore them. How then, sir, can we place as the commander-in-chief of our armies, an individual, who, in the event of a war with the country of his birth, would be exposed to this conflict of duties and of feelings. The honorable gentleman tells us that in an event like this, a gallant spirit, stifling all that love of country, of our natal soil, that the creator has implanted in the breast of every man, would take for his motto, "*fais ce que dois, advienne que pourra.*" Sir, this may sound very finely in theory, but every feeling of our nature would recoil from its practice. I call on the gentleman to point out to me the man, nay sir, I ask if he himself, and surely there is none whose eminence as a citizen would render him more worthy of so exalted a station, I ask if he himself, as commander of our armies, were called to lead our forces into the field against the country of his birth, would he not feel his inmost soul revolt at the bare idea? Whether the bare sight of the flag of his native country would not bring back upon his memory every thought and feeling of his childhood and his youth, and whether he could steel his heart to the task of carrying death and carnage into the midst of those in whose ranks might, perchance, be found the playmates of his childhood, the companions of his youth, nay, perhaps a brother or a parent? Never, sir, never could he do it. It is our duty then, sir, in making this organic law, to provide in such manner as to render it impossible, in any contingency, for our chief magistrate to be placed in such a position. The necessity is too apparent to admit of doubt.

But, sir, the gentleman tells us that if this clause were to affect the naturalized citizens alone he might yield his opposition. He however sees in it a restriction on the citizens at large in circumscribing the circle from which they are to choose their chief magistrate. This may be, sir, and all that we can answer is, that the necessities of the case make the restrictive expedient, and therefore it is that we support it. We are accused of usurping power not confided to us by the people, and inserting clauses on which they have not expressed their opinion. To this we reply, that it was impossible that every question that might arise in the performance of our duties could be foreseen or pre-judged by the people; and I, for one understand that, by the mandate with which they have honored me, I am authorized to use the best judgment and discretion in my power in acting and voting as to me shall seem best adapted to secure their happiness and prosperity on all questions that shall arise in the course of our deliberation?

Once again, sir, let not the feelings which dictated the proposal of this measure be misunderstood. Let it not be said that it is an attack directed against the naturalized citizen. He is received with open arms into the country. Every avenue to fortune which cupidity could desire, every path to office which the most unbounded ambition can aspire, are all opened to him. Is it too much to ask that there should be one small spot reserved sacred for the native of the soil? that the chief magistracy of the State, as that of the United States, shall be regarded as a temple within whose precincts none but the American people themselves shall ever be permitted an entrance? Our duty to our country makes it necessary that we should so determine, and I trust that such will be the vote of this Convention.

Mr. MARIGNY desired to address the house on this question, but as it was so late he moved to adjourn till to-morrow morning at 10 o'clock.

Mr. VOORHIES objected, and called for the yeas and nays, which resulted as follows, viz:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brazeale*, *Briant*, *Brumfield*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Lewis*, *McCallop*, *McRea*, *Mayo*, *O'Bryan*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill*, *Wadsworth*, *Wederstrandt*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—55 yeas; and

Messrs. *Brent*, *Burton*, *Cade*, *Carriere*, *Covillion*, *Humble*, *Legendre*, *Mazureau*, *Porter*, *Splane*, *Taylor* of St. Landry, and *Voorhies* voted in the negative—12 nays.

So the Convention stood adjourned till to-morrow morning 10 o'clock.

SATURDAY, FEBRUARY 15, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened by prayer from the Rev. Mr. NICHOLSON.

Mr. MCRAE asked leave of absence for Messrs. SCOTT and READ of East Baton Rouge, and Mr. MCCALLOP of West Baton Rouge; which was granted.

On motion of Mr. WEDERSTRANDT leave of absence was also granted to his colleague Mr. Ratliff, of West Feliciana.

Mr. BENJAMIN offered a resolution in the following words:

Resolved, That an appropriation of $500 be placed at the disposition of the committee on contingent expenses for the printing done by order of the committee on the apportionment of the State, agreeably to the resolution of this Convention.

The resolution meeting with opposition, the sense of the Convention was taken on it, and it was carried.

The Convention then proceeded to the ORDER OF THE DAY.—Art. 3, on executive department; Sec. —.

Mr. MARIGNY rose to address the Convention, under no idle desire on his part to figure in the debates. It is a matter of regret to him that there are so very few of the members present; because, what he desires to say to the Convention, pertains to the past history of the State of Louisiana, and therefore, every man in it ought to be informed of the facts as they occurred in the formation of our govetrnment when we came into the Union. Mr. MARIGNY stated, in the first place, that he was opposed to the principle sought to be engrafted upon our constitution, the principle of nativeism, in every shape and form. He has paid particular attention to the arguments of his colleagues from New Orleans in favor of the adoption of such a principle, but they failed to carry conviction to his mind.

He thinks that the proposition has resolved itself down simply to this: "We will not have a naturalized citizen for our governor." And, I would ask, said Mr. MARIGNY, what are the reasons assigned for this extraordinary course on their part.

1st. That in time of peace, his partial predilections for his countrymen would naturally induce him to distribute amongst them the offices within his gift.

2d. That in time of war, the recollections of his infancy, the natural feeling inherent in the breast of every man, to love and reverence the country of his birth, would have so powerful an influence over him, in the feelings of his heart, which so much controls the action of men, that his efforts would thus be paralyzed if he had to go forth to the battle field to meet his own countrymen.

Here then, said Mr. MARIGNY, we have the two only reasons, assigned by some of his colleagues for persevering in the retention of the word native in the section; and it is about that single word that they have kicked up this fuss. For his, (Mr. M's) part, he thinks they have got alarmed without cause. His colleague, Mr. SOULE, met them with grave arguments; he called their attention to certain articles in the constitution, and shewed clearly what was the supreme law of the land; he further shewed from Story's commentaries, and the valuable articles published in the Federalist, that the measure now proposed was not only unconstitutional, but that it was unjust. That is all very well in its way. Some men arrive at the end of the journey by one

path, some by another; the simile will apply as well to an actual physical journey of labor, as to the intellectual one of politics. While Mr. Soule, and those who sustain that side of the question, have met their opponents on the constitutional question, his task shall be to meet them with matters of fact, and to show them clearly, that it is contrary to the true interests of Louisiana to insert such a clause as is contemplated, to exclude the naturalized citizen from his right to become governor of Louisiana, and further, he thought such a measure would be pestiforously odious, and supremely infamous.

He desires to carry this Convention back to the time when the State of Louisiana came under the dominion of the government of the United States as a territory: that was in the year 1803. At that period, he, Mr. Marigny, was in his twentieth year, an epoch in man's life when he feels the deepest interest in his country's affairs; and the time when his memory is stored with those interesting events, which make for his after life a source of so much happy or serious reflection.

This country then ceded by treaty, became a territory of the United States, and they apparently were acknowledged to possess the same rights as pertained to other citizens of the United States. But how were the facts of the case? The territorial governor sent to us, took every possible measure in his power to ride over the people rough shodden, and to pass such ordinances as were in direct violation of the rights secured to us under the treaty of session. What did the people then in those days? The most respectable creoles of the country called a meeting, at a house in Conde street, and undertook measures that should redress their grievances. Now, Mr. Marigny asked who presided at that meeting, which met for the purpose of making this solemn declaration of the rights of the citizens of Louisiana? Why, it was Elieum Boré, a man whose lion-heart and ready nerved arm was always prepared to meet danger, and to defy the menaces of the people's oppressor. Who addressed the people at this critical moment; who instructed us in our rights, immunities and privileges? Why, forsooth, it was naturalized citizens, men whose more intimate knowledge with the laws of our country rendered more peculiarly fit to expound such principles to us, as were identified with the popular cause.

The governor became enraged at their proceedings and ordered out a force of 200 men, with two pieces of cannon, to disperse our assembly; and yet these men stood boldly, bravely up to the contest, and defended our rights. They sent a committee consisting of three members, to confer with the government of the United States on this extraordinary proceeding against the assembly, and in that very committee were to be found Messrs. P. Dubigny and P. Sauve, both naturalized citizens. The result of that mission was not satisfactory. The government refused to do any thing for our relief, further than that they went: they put in force the infamous ordinance of '87, by virtue of which the governor nominated all the officers, executive and legal, without consulting any other than his own proper will. Even further than that did they carry it. Justice herself was stripped of her robes, and we beheld, day by day, the singular spectacle of one man disposing of life, liberty and property, by simply endorsing on the back of the proceedings, "judgment for the plaintiff," or "judgment for the defendant." That was in reality an odious and insupportable tyranny. And now, sir, I would ask you who undertook the resistance to this oppression? Was it our creole population? No, sir. Again were we indebted to our naturalized citizens. Those naturalized citizens, too, whose talents and information had been called into requisition by the governor, and who profited by his administration, preferred rather to defend and protect the rights and privileges of their adopted country's citizens, than bask in the sunshine of executive favor.

Those very men, irritated by the wrongs inflicted by the powers that were, upon the people of Louisiana, stirred up our citizens to provide a remedy for the evil; yes, sir, these very men, or that class of citizens whom we now attempt to decry, found a remedy for the disease under which we then were suffering. They found a man, who, by his talents and means of fortune, was capable of devoting himself to the public good, and he was sent on as our representative to Congress to effect our political liberation. This was, I believe, in 1811.

And where did they find such a man? Was it among the creoles? No; again we had recourse to an adopted citizen. Mr. Julien Poydras, a planter of Point Coupée, was their choice, and most happily did he accomplish the objects of his mission. This plain and simple gentleman appeared at the White House in the same unstentatious garb as did our revered Franklin, at the court of Versailles; and so well was he received and appreciated by the representatives and senators in Congress, that by his means and efforts we were allowed a place among the States, and thereby released from the iron rule under which we had suffered.

Shortly after that, the Convention of 1812 met under happy auspices; I had the honor of being one of its members. That same noble spirit who had achieved our political regeneration, Julien Poydras, was called to the chair as president of the Convention; and in those days I assure you nobody thought of that honor belonging exclusively to a native-born citizen.

The government being organized, although the first governor was a creole, we still had to have recourse to the naturalized citizen to perform all those duties of office which were required by the different posts in the administration of the government, holding among themselves great experience of our political state, and the perfect knowledge of that language which was necessarily introduced into our legislative and judicial halls.

Besides that, we saw them called to the posts of honor and profit, from judges down to the minute officers, as justices of the peace. And now sir, point out to me if you can, during the space of thirty years, which have since then rolled by, whether a single one of those naturalized citizens have ever gave cause for impeachment. You cannot do it, and sir, as a mark of your gratitude for such eminent services rendered by the naturalized citizen you now tell him, (if this section prevail) that a naturalized citizen is not a fit man to hold the office of governor of your State. It is not towards those whom a blind, and foolish jealousy for others fame, have caused them to cast odium on the memory of one who has deserved well of Louisiana, that I would address myself, but I would state to you, sir an, historical fact perhaps not generally known.

We have heard the praises of those one thousand foreigners who on Chalmette plains took up arms in defence of our soil, and of our common country and who there performed prodigies of valor—but I imagine generally we are ignorant to whom we were then indebted for that intrepid and brave body of men. Let me tell you; it was to Judge Dominick Hall, an English naturalized citizen, of whose acquaintance I shall ever feel proud; and whose memory I shall ever kindly cherish.

Gen. Jackson by a proclamation dated in Mobile declared, that he would not give employment to any of the pirates of Barrataria, or in the Gulf of Mexico. His arrival was anxiously expected, and some few days after he arrived and made his quarters in Royal street near the present residence of Judge Morphy.

The legislature which was then in session appointed a committee consisting of Messrs. Rauffignar, Villeré, and himself, Mr. Marigny, to wait on Gen. Jackson, and inform him of the means we could place at his disposal. We mentioned at the same time what we conceived to be the advantage to be derived from the service of a body of men, who anxiously desired to enlist under our flag. They were under the command of one Dominick You, and could not fail to prove a corps of infinite injury to the enemy. He, Gen. Jackson, still, however, persisted in his refusal, and we left much chagrined. The idea struck us to go and consult with Judge Hall. After listening attentively to us, he suggested a very simple plan to accomplish what we aimed at, and that was, to get the legislature to pass a resolution asking the United States court to grant them an amnesty for the period of four months. That during that period the result of the war would be known, and whether conqueror or conquered, the pirates would then cease to disturb the tranquility of the country. For, said he, if we by their aid conquer, we shall pardon them for their services, and if we be conquered, then justice will no longer be at our disposal. We followed his advice, and arranged all in the manner he suggested. The pirates deserved their pardon! by braving death in defence of that country whose laws they had violated, and in carrying death and carnage into the ranks of that man's countrymen, who was fifteen

years an admiralty judge, and whom, since his death, they have unjustly stigmatized the memory of, as a traitor. The friendship which I have ever entertained towards Gen. JACKSON, has neutralized my feelings touching his difficulties with Judge Hall. But the fact which I have just related, is a part from their misunderstanding, and I mention it to show that a naturalized citizen can feel even in the most trying circumstances as far as he is concerned, pure principles of honor, and the sanctity of his oath.

Let us now look at another side of the picture. Do you know who endowed your colleges in which the youth of the country was instructed? who established asylums for the poor and distressed orphans? was it citizens of our own State? No. It was naturalized citizens. Julien Poydras left $200,000 to the asylum which bears his name, $40,000 to West Feliciana, and $40,000 to Point Coupée parishes for similar purposes. Alexander Milne, attracted by the same spirit of philanthropy, left also $200,000 for similar purposes. Nicolas Girod left a legacy to the city of $100,000. Before them another naturalized citizen, Don Andre de Almonaster, built at his own cost, the Cathedral, the Ursuline Convent, and the Hospital. Turn on which ever side you will, you cannot fail to see monuments of the liberality of the foreigner, and I say it without intention to disparage any one, you may look in vain for any such evidence on the part of the native born Americans. And yet you contend that it is right to exclude that class of citizens from the first magistracy of the State, even though he leaves his fortunes to endow your colleges, and your institutions of learning or charity; and even though he possess in an eminent degree a knowledge of the science of government and the perfect confidence of the people. Nothing can be more odious, or unjust, than such conduct on our part. Had your predecessors, the members of the convention of 1812, suffered themselves to insert such a clause in that constitution to the one now asked for, in the one we are striving to make, is it to be supposed that those naturalized citizens whose patriotism, and munificence I have to-day set forth and made clear to you; is it likely, I ask, that they would have been as prodigal in their bounties, towards those who would place such odious restrictions on their rights? Do not, Mr. President, let us in 1845 make such a distinction as our predecessors have repudiated, and you cannot do so without reflecting on their memories.

Mr. MARIGNY now takes occasion to say to Messrs. Saunders, Benjamin, Grymes, and Co., that their satirical and sarcastic course will not avail them before this Convention. If they conceive that this question can be settled by such ruses as they have sprung upon us, they are mistaken; if they think that this question is to be settled by rhetoric, by unjust representations, by out of the way comparisons, or by *wit*, they grossly deceive themselves.

Now, Mr. President, let us take a look at the cunning position they have assumed. They tell you, one with an easy manner, the other with a dolorous accent, that in the time of peace a naturalized governor would distribute, what in their peculiar style of eloquence they are pleased to term "the loaves and fishes," amongst their own countrymen—and that no one else would have a chance to taste the one or the other, and that he would laugh in his sleeve if a poor native born American was to present himself for any little corner of the public favor; and therefore the gentlemen, reasoning by analogy, think it is right that they should have that small boon granted to the natives, to name among their own countrymen a governor who would not be subject to such influences. As if, Mr. President, the office of governor was to be put up every four years as in a lottery, and the first drayman coming either from Germany or from Ireland, if you will, had a chance for the first prize, and getting that he would have the right to divide all the loaves and fishes out forthwith among his brother draymen or associates, or acquaintance. So absurb an idea as this could never have entered into the heads of these gentlemen, unless they found them among the

of the town of Jackson. They remind him, (Mr. M.) a good deal of the fable of the mountain in labor, which, alas, only brought forth as in this instance, 'a mouse.' There, are, however, reasons which are powerful, to entitle this provision to the rebuke of the Convention, and he (Mr. Marigny) will endeavor to exemplify them. An honest foreigner and a good man arrives on our shores—he acquires his citizenship

in the regular mode prescribed by the constitution of the United States. He is attached to our institutions by thirty years of residence and identity with our interests. His children are born on our soil, and bind him still stronger to the interests of our country; the circle of his friends and acquaintance gradually is increasing from day to day; his talents and abilities are beyond dispute, and he is regarded as a man who would do honor to any country. And yet, if you were to talk to my colleagues who have taken the opposite side to the one I espoused, of placing such a man at the head of our governmental affairs—of confiding to such a man our civil and military affairs—they would tell you he is a foreigner, and in time of war between the United States and his own country, he would remember his own village clock. He would remember the early scenes of his childhood, his little sports with his schoolfellows on his own native meadows. He would be so imbued with such touching reminiscences that he could not serve you faithfully, and for these powerful natural reasons would either induce the poor man to either betray you or sell you to the enemy. What a bugbear, Mr. President, have the gentlemen held up to us? and to what extreme nonsensical provisions have our friends on the other side forced themselves. War! war!! is the sound in which they build their whole argument. War!! is the mystic term, around which, and to which, they all cling, as if it bore some cabalistic spell to carry them through this ordeal.

Now (said Mr. Marigny) I desire to join issue with the gentleman from New Orleans, (Mr. Benjamin.) You, Sir, admit that in 1815 we had all cause to admire and be grateful for the courage and bravery displayed by the foreign force on the plains of Chalmette; but at the same time you ask whether the same courage and energy would have been evinced had they been called upon to meet the sons of France in deadly strife. Contrary then, Sir, to all parliamentary usage, you call upon the other distinguished member from New Orleans, who had the floor just previous to your address, and say to him, and you, Sir, suppose you had been placed at the head of an army to meet in deadly combat your own countrymen; could you, would you have done it? Upon what principle or by what right do you ask that colleague of ours to account to you, even if he be a naturalized citizen? By what right, I again ask, do you force a man to reply to you, nolens volens, when he is sick, which he tells you at the conclusion of his address, he is. I tell you, Sir, that you have inflicted on him an unjust provocation, and although you may consider it as a fair specimen of parliamentary eloquence to indulge in such vagaries, I give you distinctly to understand that I take up the glove in his behalf; and Sir, I trust that you will not complain of my not being a native of the country, since I descend from those ancient warriors who conquered the country and here represent six generations of Louisianians.

You say that the foreigner is not to be trusted, because when war is declared between this and his native country, he will not act against her. You either cannot be serious, or else you know nothing of history, (and I really had given you credit for having forgotten more than I know.) History contradicts your position at every page.

Who defended BuenosAyres against the memorable expedition of Great Britain, when Spain could neither defend herself, nor allay the storm? It was a Frenchman who had become a naturalized Spaniard. His name was Di Linierès. At his voice, and at his call, the militia of the country were united and became as a band of brothers fighting for freedom. He disciplined them; led them encouragingly along, until he made the attack upon the British at their head. He disconcerted them so, as at the end of a few months, to reduce their army of 8000 men to 4000, and finally he drove them from the country to their vessels in waiting, and thus *they* were driven from *that country*.

At a later period, the self same England sent a fora of 6000 veteran troops to take possession of the island of Porto Rico. Some naturalized Frenchmen attached to the country of their adoption, animated the creoles to a worthy spirit of resistance. Abercrombie lost an arm in the battle there fought. He saw his army dwindled down to nothing, and he took his departure suddenly from there.

I will not again call your attention to the events of 1815 in Louisiana; but you know that our proud and confident enemy,

England, sent upon our shores 15,000 of her old and well tried veteran troops, veterans that had served and conquered under the redoubtable Wellington. And by whom were they met? By whom were they conquered? Why by the naturalized citizens principally in the State of Louisiana, combined with the efforts of the native American force.

The cry now is, however, but oh! if they had been Frenchmen invading our soil, we should have heard another story. It may be that you desire despite the merits of the natives of France to throw aside their pretensions; and yet, he, Mr. Marigny, will do the gentleman to whom he particularly replies, (Mr. Benjamin,) the justice to believe that such an idea was never entertained by him, yet such is the inevitable tendency of the principle he advances if carried out.

The enquiry he (Mr. Marigny) desires to make is this, do the gentlemen think to frighten us, the Frenchmen, with their vivid description of the horrors of war? He knows, as we all know, that Frenchmen, or their descendants, form the largest portion of the population of Louisiana; and it does appear to him as if the gentleman wished to direct the whole of his oratorical battery against that class of our citizens, when in exalting, as they do, their native genius, they create armies and navies; the ocean covered with vessels of war; and then with a rhetorical flourish, they make all these French, that they may make a screen to retire behind when they please, and thereby hide their odious system of proscription.

Fortunately for me, said Mr. M., all your fine quotations are lost on me. I have never read any of those works, which are supposed necessary to make a logical man. But, Mr. President, I am one of those who, looking at things as they are, feel myself capable of meeting the emergency of the hour; and of according my political acts to the political wants of my country. France to do, is not as France was, in the time of Louis the 14th and Louis the 15th. It is now constitutional France—France, governed by a constitutional monarchy—by a monarch who has less power than the president of the United States, in any of the departments of government, and who can't even draw from the treasury the means of sustaining his court, without a vote of the chamber of deputies.

How then is it likely that we can ever be engaged in a war with France?—that country which can have no other feelings towards us but those of amity and friendship. Nothing but an alliance between England and France could possibly bring about such a state of things; but experience daily proves to us that such an event can never happen, at least for centuries to come.

When Talleyrand and Louis Phillippe entered into that alliance of amity and friendship with England, of which so many talk, and which so few understand, it was because they believed the measure was necessary, in order to carry out the object of the revolution of July, 1830, at which the rest of Europe had became alarmed, and which they labored to destroy the effect of. This policy has been proved to be wise and salutary on the part of those statesmen—and it was not for the purpose of furnishing England with a pair of colossal boots, to bestride the world, as was wisely conjectured at the time, that such treaty was entered into.

Since that period more than fourteen years have elapsed; France goes on prospering and to prosper. She will no longer war with England, but with the spindle and loom, and her forty millions of people have accorded to the verdict. The French people are now an united and contented people. There is no longer any distinction between classes, either heriditary honors or the honors of wealth, which has heretofore bound down their spirits and kept them in poverty and misery, the real source of all their political revolutions. While Great Britain, with her twenty-eight millions, has eight millions of them in Ireland, who are ready at any moment to cast off their vassalage; groaning, as they are, under the systems imposed on them, an exacting priesthood that they do not worship under, and an intolerant and insatiable aristocracy.

No, *that* alliance between England and France ought not to inspire dread in the United States, because it is a natural alliance, springing from a community of interests. They know in France that we regard and repair on board their ships in this country with pleasure, and that they

can alone arrest the trident from the hands of England, and gain the supremacy of the ocean, by their friendly feelings and sympathy with the United States of America.

It is nothing, therefore, but a mistaken notion engendered in the minds of those gentlemen, to satisfy their feelings of self love and self opinion, when they talk to you about the danger to be apprehended from a state of war, and consequent treason in Louisiana.

What has surprised him, (Mr. Marigny,) more than all else is that the eloquent gentleman, (Mr. Benjamin,) did not on this occasion indulge in the pathetics; that he did not conjure up such a scene as we have in Coriolanus, where the tender wife and venerable mother were made to appear, habited in sable weeds, and with hair streaming to the winds, were made to supplicate on their knees before the governor, in the name of Bordeaux and Toulouse, to spare the blood of Frenchmen.

Such a figure as that might have produced some effect.

The gentleman who last addressed us must indeed have a great love for his domestic hearth, to get into such a labyrinth of elegant description as he has about the recollections of his infancy; about the school house, where he first got the impression that he was destined to become a great man, as all boys do; about the grassy meadows on which he indulged in his boyish sports—in short, about all those tender recollections of infancy which, despite ourselves, fond memory will make us cherish in our hearts.

For myself, Mr. President, I am no poet, and do not indulge in such vagaries. But, Sir, I pretend to have my share of common sense, and with the history of my country in my hand, I am ready to prove that all the gentleman's assertions are nothing but hypothesis, contradicted by facts themselves. That moreover, the sentiment of honor implanted in the human heart, is stronger than that of love of country; and that a naturalized governor of Louisiana, (notwithstanding the fancyings of Mr. Benjamin,) would prefer falling on the field of battle, than to lose his character as a man of honor.

Did Marshal Saxe remember that he was a German, when he commanded the army of Louis the 15th, on the plains of Fortenay, against the allied armies of Germany and England? Was it not Langeron, a Frenchman, who had been naturalized in Russia, who commanded the troops of the emperor of Russia when the allied forces made their triumphal entry into Paris? True it is, that he recollected the country of his nativity, in this wise, by his affectionate attention and solicitude for all those Frenchmen, who had or were suffering from the effects of the war. But on the field of honor all those feelings vanished. He thought alone of duty; not even the glorious name of his own native country could have charms for him, and drive from his heart his feelings of duty to the country to which he had sworn allegiance and fidelity. Do you ask another proof? I have one at hand, and one, I think, that will satisfy the most sceptical, of the position I have taken. You must all recollect, and no doubt do, how the unfortunate Marshal Ney was tried in France, before the Chamber of Peers, after the restoration of Louis 18th. His lawyer, the celebrated Dupin, sen., after exhausting all the eloquence, logic, and law which was at his command, found that they did not produce such an impression, as to overbalance the influence of the crown upon the feelings of his judges. Suddenly he bethought himself of an idea, which he felt sure would save him. He arose again, and in a loud voice proclaimed to the astonishment of all present—"; defy you all, to touch a hair of his head I the Marshal is not a Frenchman, and you cannot arraign him before this assembly on a charge of treason to his country." The noble prisoner, forgetting his unfortunate situation, but yielding to a soldier's impulse, cried out, "Who gave you permission to employ such means to save my life. Let it be taken, if they will have it, but never say that I deny the country of my choice and my adoption! I feel the sanctity of my oath, and I feel moreover that France has the first place in my heart." These are the kind of men that they would proscribe from filling the office of Governor of Louisiana.

If ever there was a time in my life, Mr. President, that I regretted my inability to speak English fluently, it is now. I would now desire so to impress the voice of truth, and reason, upon the hearts of the mem-

bers of this convention, that like myself they would see and feel (and I feel certain and sure that like myself they have seen and are prepared to resist the odious restriction, which it is endeavored to fasten upon us,) that they would say with me, engraft such an infamous proposition upon your Constitution and we will tread it under foot as we would a venemous adder.

Are you aware, Mr. President, what we have most to dread in Louisiana? It is not the English. It is not the French. It is not our native citizens; but it is a class of men who call themselves Americans, who have the unblushing impudence to express themselves ready, like another Hartford Convention, to propogate amongst us the odious doctrine of absolutism, and even abolitionism itself. The orator of yesterday, (Mr. Benjamin,) knows this as well as I do. Why, then, did his surpassing eloquence spare them? Where are his shafts of satire upon this subject?

The real cause of his silence is this, that he will not find fault with any thing that can operate against his preconceived opinions; and further, that in calling up his proscriptive system against these dangerous men, he would introduce the measure generally, against the native born Americans of other States, of which, if we are to believe what we hear, he was a citizen himself.

But Sir, I again ask you, by what right do you expect to disfranchise in 1845, those who had rights guaranteed to them in 1812? rights which never having been disputed, are vested rights. Did you consult the people, or did you take it for granted that Mr. Benjamin's doctrine is the correct one; that this Convention can do as they please? They will doubtless tell you that we are here, in the capacity of sovereign masters, with all the privileges of the Montmorencys, the Dumas, the Bridgewaters, and the Wellingtons!!! But Sir, I tell you, I, Bernard Marigny tell you, that you are after all, nothing but the servants of the people—nothing more, nothing less. Presume on your authority! if you do, they will soon bring you to a just appreciation of their power over you; and it would not at all surprise me, if they were to obstinately persist, at the very next election, in selecting a governor from the very men whom you are now so anxious to exclude from that privilege.

What then would you do, poor weak mortals? Why, you would be like the buttercup and daisy, which the first shower of rain would forever wash away from the face of the earth, resisting as you do public sentiment and opinion. The only thing, Mr. President, that is wanting to complete the iniquity of the course submitted to us for consideration is, to restrict our ancient catholic population, and make ineligible as governors; under the solemn mockery that a majority of the citizens of Louisiana are protestants. But that course sir, you dare not take. The moment has not yet come, when you have the power to fasten your restrictions further upon us.

It is upon the naturalized citizens, and particularly upon the French naturalized citizens, that you have directed your battery. Hence the great exertions of Mr. Benjamin to depict the dangers of a war with France. Hence spring all those sallies of imagination with which we have been so much favored recently. For my part, sir, believing it to be an unjust course on their part, I cannot but hope as I expect, that this Convention will deal out to them prompt but severe retributive justice.

Mr. President, I have done. I have endeavored to explain to you the reasons for the vote I shall give on this question. I have endeavored to express my sentiments in taking the floor on this question, as I conceived to be the duty of a watchman at the tower of liberty.

The history of the past, and the present position of things, admonish me, that I have only foretold you of the future, and if I did not appear before you in the robes of eloquence, yet it cannot be denied that I have furnished you with facts, so strong, which give the most positive and direct lie to the sophisms advanced by gentlemen opposed to me; and the only reason for my attacking their trenches, is that I conceived I might carry them by the force of truth.

It may be that you will class my speech as rude, but I want to bear in mind that my greatest happiness is to meet my antagonist face to face.

Mr. Roselius said, that it had been suggested to him by some of his friends, that on account of the peculiar position in which he was placed with regard to the question now under discussion, he ought not to par-

ticipate in the debate; that it had also been intimated to him that a contrary course would have a tendency to injure his popularity. But, sir, (said Mr. R.) after having considered and weighed the friendly advice thus given, I have come to the conclusion to reject it. I value the approbation and good will of the generous constituency who have sent me here to represent them, as much as any member of this house; but, sir, I would be unworthy of being their representative, were I to attempt to conciliate their favor by a dereliction of duty. Nor do I believe, sir, that there is the slightest foundation for the apprehensions of my friends. I know my constituents too well to think, for a single moment, that their friendly feeling towards me can be impaired by pursuing an independent and straight forward course. They have sent me here, sir, to give a full and free expression to my honest and conscientious views on this, and every other subject, which may be presented to the consideration of this Convention.

Sir, what is the question now before us? It is proposed to introduce into the new constitution an additional qualification for the office of governor. The one sought to be introduced was not in the old constitution, it is an innovation, and he (Mr. Roselius) thinks that when any innovation is sought to be made in the organic law, those who propose it should assign some good reason for the change, either on the score of necessity, policy, or at least expediency. He (Mr. Roselius) considers it wrong, and therefore he shall oppose it. He will not follow the gentlemen who have discussed the constitutionality or unconstitutionality of the proposed measure; he admits for argument's sake, that the Convention has the power; but is it right, just, reasonable, politic or expedient for us to use it? He (Mr. Roselius) says, that the question cannot be answered affirmatively, without an obvious violation of the most fundamental principles of government. The first and paramount object of this convention in framing an organic law, should be to extend and secure to all the citizens of the State, without distinction, equal rights, privileges, and immunities. If then this is incontrovertible, how can it be pretended, that a line of demarkation can be introduced into our new constitution as proposed in the section before us, without violating that principle? If to be placed on the same platform and level; if equality of rights and privileges, which ought to exist in every well constituted government, be acknowledged to be the proper foundation of our government; why is it asserted that naturalized citizens are foreigners? why should you desire to exclude them from any of those rights, acquired by them when they become citizens? The distinction is an odious one, and should not, and he hoped would not be sanctioned by this convention. They have rights acquired and secured to them under the laws and constitution of the United States; those laws expressly provide, that when he whose lot it was to be accidentally born on another shore, shall have complied with the requirements of the naturalization laws of Congress, from that moment he is to be taken and considered as a citizen of the United States. He is to all intents and purposes a citizen of the country, and although born on some far distant shore, he is entitled to the same rights and privileges as those who were born on the soil. I have endeavored to account to myself, and satisfy my own mind as to the motives which actuated the decision of the members of the committee, in introducing into the constitution a clause so contrary to the spirit of the institutions of our country. By what reason or by what principle can they pretend to justify such an odious measure. The power it is true, is for argument's sake admitted, but though he (Mr. Roselius) has listened with an attentive ear day after day to the eloquent remarks of gentlemen, he has never yet heard one sound argument for its adoption. Why sir, I have asked them at least a hundred times to explain to me, (and I have asked myself the question a thousand times) why this restrictive policy was necessary, and all the answer I ever could get from them is this: in a sarcastic and solemn style they tell us of their liberality in admitting naturalized citizens to the privileges they themselves enjoy. They tell us this is the asylum for the oppressed of all other countries, but at the same time they ask us to grant them one small boon; they tell us in the same breath (in which they make the assertion, that we have the same and equal privileges that they have;) that it is

nothing but right we should leave to the native born citizen one exclusive privilege, that of filling the governor's chair. But why should this particular office be only accessible to those who are born in the United States? By what reason or by what argument do these gentlemen arrive at this conclusion? They are apparently candid, and they tell you they are guided by the impulse of their feelings. He (Mr. Roselius) does not doubt that they have been guided more by their feelings than their reason. My colleague from New Orleans, (Mr. Benjamin) tells you that his feelings prompted him to ask the insertion of the word "native," in this section, because they operated on his heart, and that afterwards when he had examined the question, his judgment co-operated with his feelings, and more and more convinced him of the necessity of the proposed clause in the section. It is not surprising, sir, that a man who suffers his judgment to be influenced by his feelings, should be led astray by those feelings; and let his judgment be warped in carrying out a principle which his predilections prompt him to adopt. You, Mr. President, have had experience in the profession of law—have you ever yet found a client who thought he had not right on his side, or who thought that his adversary was not about to wrong him? Whenever a man is acted upon by his feelings, he must necessarily be distrustful of the conclusion to which his reason leads him. This no doubt is the cause why my friend and colleague, (Mr. Benjamin) finds the conviction so strong upon his mind as to espouse the cause which he now does, with so much zeal, so much force, and so much eloquence. But, sir, to what do the arguments which the gentleman advances amount? to what do they tend? Let us take a sober, calm view of the question, sift the arguments, as they have been improperly dignified, and to what weight are they entitled? It is stated by one of the gentlemen that a naturalized citizen ought not to be trusted with the executive power in the State of Louisiana, because the duties of the office are such as might expose him to temptations that he might not be able to resist. In the first place in the appointing power, his feelings for his countrymen would be so strong and uppermost in his breast as to make them the especial recipients of his official favor.

Mr. President, I say this is a most unfounded and gratuitous assertion. It is true, sir, there

> "Breathes no man, with soul so dead,
> Who never to himself hath said:
> This is my own, my native land!"

We delight in the retrospective view we take of the land of our birth; memory lingers on the school-house where we were first taught to lisp our letters. We delight to think of the church where we first offered up our prayers to the Giver of all Good. We recur with lively emotions to those scenes in which our infancy was passed. The vineyards, the copses, the meadows, the orchards, through which in early life we rambled, must ever come up in the feelings of the heart of man with pleasurable emotions. But, sir, when a man has had the moral courage to leave his home and cross the wide Atlantic, to cast his lot permanently upon a foreign shore, he severs those ties, and contracts others equally strong and binding. After going through the probation required by law, he becomes a citizen of the United States. And now, sir, I will ask you why the assertion is made that he cannot be trusted to fulfil the duties of governor of the state of Louisiana? Why, forsooth, because of his attachment to his native land, and of the scenes of his early youth! But, sir, does not every man know that there is a wide difference between the innate and natural attachment a man may have for the locality of his birth; the delight he may experience to recur back to that spot on account of the associations connected with it, and the attachment for the government under whose tyranny he first drew his breath? The governments of Europe exist in opposition to and in defiance of the will of the people, and are sustained by standing armies; the people would overthrow them if they could. How, then, can it be supposed that a man, born under a government where power is a synonymous term for oppression, should yet be so devoted to that government as to unfit him for performing the duties required from a governor of Louisiana, and would not hesitate to forget the sanctity of his oath? The gentlemen on the other side of this question can bring forward no argument to sustain such a position.

It is next urged, that a naturalized citi-

zen could not properly discharge the duties of governor in case the state should be at war with the country of his nativity. My colleague (Mr. Marigny) has told you, and told you truly, that history gives the lie to this assertion, and that it is unsupported by any example in this or in any other country, or by the experience of by-gone days.—The history of the United States, and of this state in particular, justify me in the assertion, that the naturalized citizens have never proved recreant to their adopted country in the hour of trial and danger.—'Tis not because their hearts are filled with recollections of the place of their nativity that it must be supposed they are attached to the mercenary soldiery of a despotic government, sent to invade this soil of the country of their adoption. No, sir, the love of country is one thing, the love of oppression another; and it ought to be clear to the minds of those gentlemen, as no doubt it will be in their cooler, calmer moments, that the European comes to this land of freedom to escape from the odious and galling systems of the despotism under which he has suffered. If this be true, sir, what becomes of this argument of the gentlemen? It is scattered like chaff before the wind. But, sir, although it is quite easy to draw conclusions from false premises to correspond with the feelings of gentlemen, still we have an undeniable right to call on them to establish, by proof or correct reasoning, why it is that a naturalized citizen should not be entrusted with the executive power of the state? It has been very broadly hinted that a naturalized citizen is unfit to have the executive power confided to him. But, sir, this again is mere assertion; and we all know how easy it is to assert. But fortunately for the cause of truth and justice, proof is somewhat more dicuffilt. God forbid that I should say one word that might produce any unpleasant feelings by one portion of our citizens towards another. I rebuke the invidious distinction, and say that we should pause before we throw into the midst of our population the torch of discord, which inevitably will lead to bloodshed and civil war. The experience of the last two years has brought an example by which we ought to profit. I care not who on that occasion was in the right, or who was in the wrong; it suffices for me to show the pernicious effects of a wrong principle carried out. Some will tell you one party was right, some the other; but when you reflect that a popular outbreak, such as was experienced in Philadelphia, where the government of the state found itself for several days impotent to suppress the riots, may by a similar contingency happen in our midst from a similar cause, ought we not to pause, I ask, before we throw amongst our citizens the firebrand of discord? The first duty of the citizen is to support and uphold the majesty of the law, and the second to maintain unimpaired those rights and privileges guaranteed to him by the constitution under which he lives. And he who preaches different doctrines propagates heresies that, if entertained and carried out, will destroy the republic. He (Mr. Roselius) thinks that there is no one in this convention that would force measures to that point; and yet he foresees that unless we are very cautious, we shall introduce something into our constitution that will have the effect of producing heart-burnings, bickerings, jealousies and discords. For his part, he denounces the bickerings of the present day as contemptible. The argument advanced is that no one but a native born citizen is fit to be entrusted with the executive government of this state. They say it should be a palladium which none but native born Americans should enter. Are not the restrictions already sufficiently strong without mingling the conservative principles in our organic laws with the spirit of ostracism which these gentlemen appear desirous of establishing? And, sir, I ask you why it is that this odious distinction between the naturalized and native born citizen should exist with regard to the office of governor of the state? Gentlemen tell us that the exclusive eligibility to the office of governor is a small boon which the natives of the soil ask of the naturalized citizens. The very idea, sir, here expressed, is absurd in the extreme. The laws of the land recognize no distinction between one class of citizens and another; how then can a boon be asked by one or accepted by the other? Why, sir, is there any principle of free government—any principle of republicanism—to sanction such a pretension? They say that a naturalized citizen is not to be entrusted with the powers we confer on our

governor. What, sir, is the power of that governor, compared with the power of the government we are now exercising? Why, sir, it dwindles into insignificance in the comparison. Do you ask any proof to convince you that the insertion of the words "that he shall be commander in chief of the army and navy of the state of Louisiana" is a questionable feature? If you do, sir, I shall give you proof positive as to the navy; for we have not one single vessel of war belonging to the state. But one thing seems to have been forgotten by those gentlemen who are so anxious to restrict the rights and privileges of the naturalized citizens, and that is this: that in their desire to decry the rights of that class, they seem to have forgotten that no state in the union has a right to any special marine force; and so far as the question goes as to the military qualifications of the man who may be elected governor of the state of Louisiana, and thereby become commander in chief of the forces of the state, he (Mr. Roselius) does not think they should be so sensitive; if we may judge from the past. For, sir, it may happen again, as it has already happened, that the governor, whose imperative duty it is made by the constitution to be the commander in chief of the army, will not know even the first principle of the science of war. Among all the governors we have had, there has not been one who "the division of a battle knew more than a spinster," or could lead a single battalion into the field, or form and command a single company, much less an army. And yet we have so decided it, and as this honorable convention has so decided it, it is no doubt a very wise provision.

But what is there in the functions and duties of the governor so very difficult and arduous that no one except a native citizen can discharge them? He is the chief magistrate of the State—a high and important trust is confided to him. Notwithstanding this, however, his duties are comparatively few. What does he do? Once a year he writes a message to the legislature of the State, which, judging by the specimens which we have had for the last two or three years, ought not to have taken more than two or three hours of his time; any intelligent man could have done it in two hours, any man of common education, or any one who had been three or four years at a common school, could do it in three hours. There is no great mystery then in this difficult function required of the governor. What else has he to do? Why he has a duty to perform, which, to a vain man is no doubt very agreeable, because it keeps about him a host of needy office hunters, and that is not very irksome, and no great labor, if he be pleased as some men are, with the flattery of fawning sycophants. And he has the *great* privilege of nominating certain officers, who may be approved or rejected by the senate. And yet this is the task that we have heard so much said about, and no man can perform this great herculean task unless he be a native born citizen. And now sir, let me ask you another question; does he not have a secretary of state? and does he not also have a private secretary? Does not the private secretary write out all the appointments which the governor has the right of making by and with the advice and and consent of the Senate? And perhaps out of two hundred or two hundred and fifty greedy office hunters who annoy and harrass him, he may have the proud satisfaction of appointing some ten or twelve, provided, nevertheless, the senate see fit to confirm his nominations. What other great power has he? I may be answered perhaps, the removing power. Yes, sir, I am sorry to be obliged to state that this power, although not vested in the governor, has of late years been usurped by him; and that usurpation has been sanctioned by the supreme court, by a strange, and to my mind altogether unsatisfactory course of reasoning. I allude to the case of Prieto and Nicholson, vs. Thompson and others, in which it was decided that the governor has the power to remove one officer by appointing another; and that thus he can do indirectly what the constitution forbids him to do directly. The next question we come to, in looking to the extraordinary mental powers required from the governor, is the pardoning power. That power I admit to be of an elevated and serious order. But few governors will ever exercise that power, except in those very rare cases in which it clearly appears that injustice has been done to the accused, and even then he cannot exercise it without the con-

sent of the senate. This is the substance of the power which we are told cannot be entrusted to any other than a native citizen. Now let me ask the advocates of this clause, on what ground it can be contended that a man who has been 30 years a citizen of the United States, who has acquired a residence and citizenship in Louisiana for 20 or 25 years, whose family has grown up around us, and who has the same identity of interest that we have, is not a fit and proper subject to present his claims to us for the highest office in our gift? I say that he has, and if I do not much mistake the feelings of this convention, they will say so too. If on consideration you judge it necessary to extend the time of a man's political residence, before he shall have the privilege to aspire to the gubernatorial chair, I will join you. If you say it shall be 30 years, or even fifty, I have no objection. If you adopt such a principle, you must in justice apply it to all, as well to the native as to the adopted citizen, and if you do, I shall be disposed to vote for it.

And, sir, let me tell you, much as it pains me to speak of myself, which I do with the utmost reluctance, that throughout all our deliberations, and in all the other public stations in which I have been placed, I have never been actuated by any other principle than that of broad and equal justice to all men. I have been charged, sir, on this floor, when voting on certain questions, with a leaning to the views of a certain party with which I have never been connected. But, sir, when I come into this body, I feel that I belong to no party. I have been a partizan, it is true, and I may continue to be so, but, it has been and will continue to be, upon the solemn conviction that I am right in the principles that I espouse. Whenever those with whom I generally act, depart from what I conceive to be correct principles, they will not find me in their company. When I voted for two years' residence for an elector, and three years' residence for a representative, I did so on the broad principle of equality, because the rule was uniform, and granted to all the same rights and privileges without any distinction. For my part, sir, I care not for the calumny of men who seek to place me in a false position. I conceive this to be an occasion in which I am called upon to mete out even-handed justice; and if the decision I have formed in my own mind be erroneous, I do not know it. I regard it as a question of *distinction* between one class of citizens and another, and as such I am determinedly opposed to it; no matter by whom brought forward. I feel as an independent man should feel, and cannot be influenced by the hisses or applause of the populace, and I care nothing for the evanescent smiles of popular will, conscious as I am that I am doing my duty as a member of this convention to the best of my ability.

Let us look a little farther into the extraordinary powers of the governor of Louisiana; there is one which I had forgotten, and that is the veto power. This power is of an important and delicate nature: it requires knowledge and discretion; but is it so difficult that none but a native can execute that power? Let me refer to precedents. The experience of the past has proved that the most scandalous abuse of that power recorded in the history of the country, was perpetrated by one of our native born citizens, the present president of the United States. I could call your attention to another example of this abuse of power, were it not that I am fearful of hurting the feelings of honorable gentlemen of this convention. I trust, sir, that what I have already said, will be sufficient to convince you that a naturalized citizen is not so utterly incapable of discharging the duties and exercising the powers of governor as some gentlemen seem to imagine.

Mr. Roselius thought that no argument had been advanced in support of the proposition; its advocates had indulged in declamation. The objection so often repeated that a naturalized citizen cannot safely be trusted with the office of governor, in time of war, may be answered in another way. It is well known, that the command of the army and navy, (and he must again repeat that he was ignorant of there being a navy in the State of Louisiana,) with the exception of an insurrection or sudden invasion, belongs to officers appointed by the general government; a most wise provision, calculated to guard against the danger of committing the direction of our military operations to incompetent and unskilful hands. What would have been the result in 1814 and 1815, had we then had alone to rely upon a governor who was ignorant of the first principles of the art of war; and here

let me say, said Mr. Roselius, that while I thus speak of him, it is a duty I owe to myself to say, that he was a good man—a man whose memory is embalmed in the hearts of the citizens of this State. But suppose we had sent this good man, the governor, instead of General Jackson, to meet Pakenham, the probability is he would have been defeated; and taking into consideration the ordinary calculations of chance, I think we may safely say that his defeat would have been signal. Suppose, then, we indulge in this boundless field of conjecture, is it not likely to be possible that a naturalized citizen who had endeared himself so highly to the people as to get the office, would be equally fit to perform all the duties of the office, and do good service in the field too? But, Sir, on what ground can it be said, that a man so situated as to unite the suffrages of the people in despite of the accidency of his birth, would ever become a traitor as governor of Louisiana? Assertions are easily made, but in order to establish facts, proofs are necessary. Argument and logic are unavailing when the premises on which they rest are false, and not sustained by facts. Have I or have I not shown, that all the powers conferred and duties imposed on the executive of this State, are not so very difficult as some people strive to make them? What are those duties and powers compared to those of the judiciary? The judiciary constantly exercises power over the property, the honor, the reputation, and even the life and death of the citizen. Such is the tremendous power wielded by that department. We can, therefore, be at no loss to define which position is the most delicate, important and difficult.

If I be not mistaken, and I do not think I am, the judges of the supreme court of this State exercise more real power in one single session, than five governors could in the space of 20 years. The fortune, life and reputation of every citizen is more or less in their keeping. If my opponents are correct in their system of excluding the naturalized citizen from the executive chair, why not exclude him also from the bench? Answer this, gentlemen, if you can. Why then, I repeat the question, are not the same qualifications required for a judge as for a governor? My fear is, that I shall be told in reply *chaque un a son tour*, we'll come to them by-and-bye. I tell you therefore, sir, to be consistent; if you shut the naturalized citizen out from the office of governor, you must also exclude him from holding any office in the State government.

We all know that people are apt to draw unfavorable inferences from the course which public men are sometimes compelled to take, and I feel that such may be the predicament in which I am now placed. Sir, I hope that I shall not be charged with vain glorys when I say that I have never asked for an office, no, not even for a vote. It is true that I have been honored, undeservedly, with high and distinguished offices, and there is no man who more gratefully appreciates the kindness he has received and the confidence reposed in him than he, Mr. Roselius, does. At the time he was appointed attorney general for the State of Louisiana, he was not even personally acquainted with the executive; and when his name has been brought before the people for any other office it has not been at his own solicitation or request. And, sir, I have come to the firm resolution never to accept any political office hereafter. I have had enough of politics. I feel that I have sufficient firmness of purpose never to swerve from that resolution. But, sir, I want nothing incorporated in this constitution except on correct principles; those principles are immutable; they cannot fluctuate nor be influenced by the ups and downs, or the ins and outs of party. In framing a new organic law, give to all equal rights and equal privileges, without distinction, without restriction. I admit your right to restrict, but while you do restrict, let your restrictions be general. Do not discriminate between one class of citizens and another. The constitution of the United States recognizes no such odious and arbitrary distinction. But notwithstanding this, certain gentlemen seem disposed to tell those desirous to make this their adopted country, "you may obtain the *name* of citizens, but on condition that you become hewers of wood and drawers of water." Sir, I know that such are not the sentiments of the American people. That people takes a noble pride and pleasure in proclaiming to the oppressed and persecuted of every clime and country, its willingness to extend the inestimable blessings of liberty to all who wish to avail themselves

of the invitation. No one has deplored more than I have, the shameful prostitution of the name of American citizen, for contemptible party purposes, by conferring it on those who by law were not entitled to it; and who for that very reason were unworthy of it. Individuals who have been guilty of fraud and perjury are unfit to become citizens of the United States; and every one who has been naturalized in violation of the laws of congress, stands in that predicament. Mr. President, I consider it a proud distinction to be an American citizen; but I fear that the respect which that name has heretofore commanded in every part of the world, will be diminished, if not entirely destroyed, unless the laws relative to naturalization are administered with that purity without which the ministers at the altar of justice become a disgrace and curse to the country in which they rule. In the days of Roman greatness and glory, her citizen required no pass-port. In whatever part of the world he travelled, even among the fiercest barbarians, the exclamation "*civis sum Romanus*" proved a talisman to him: the uplifted arm of the assassin was paralyzed, and the instrument of death dropped harmless from his hands. Such should be the charm of the words "I am an American citizen." But, sir, that will never be the case unless the rights and privileges appertaining to the citizens are scrupulously guarded and protected, without odious distinctions and disqualications.

Mr. Lewis desiring to offer a few resolutions on this subject, moved an adjournment to Monday morning, which was carried.

Monday, February 17, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer from the Rev. Mr. Woodbridge.

The Convention proceeded to the discussion of the clause recommended by the majority of the committee on the executive department, requiring that none should be eligible to the office of governor but a natural born citizen of the United States.

Mr. Lewis said that this question had been most elaborately discussed, particularly by those that opposed the principle in the section, that the chief executive office of the State should be restricted to native born citizens. I consider, said Mr. Lewis, this principle to be vital, and one of the most important that will come before this house for decision. I shall not follow the wide field of debate that has been opened by the gentlemen that have preceded me in opposition to this principle; but I shall restrict myself to showing that it is expedient; and that as to the argument of unconstitutionality, it is without the slightest foundation.

We have been frequently told, in the progress of our proceedings, that we should leave nothing discretionary with the legislature; that our duties are clearly defined; that in reference to suffrage, we are to extend it; and from the dispositions of the law it has been inferred that we should endeavor to carry out the presumed will of the people. What says the law convening this Convention, upon the subject of suffrage? That the 8th section of the 2d article of the constitution be amended, so as to fix and determine in a more specific manner the qualifications of all persons exercising the right of suffrage.

There is nothing in this section, said Mr. Lewis, which, strictly speaking, authorizes us to extend suffrage any more than to restrict it. Its palpable signification is this: that the particular section of the old constitution upon suffrage is vague and indefinite, and that we are to amend it so as to make it more clear and explicit. From its context, it may be safely inferred that it was the design of the people to leave us a certain discretionary power to amend the constitution, as well in respect to changes that were foreseen as those that were not foreseen, and upon which we were not made acquainted with the popular desires. We are to consult expediency and the public welfare, in all the changes we may deem it proper to make to the organic law; the people reserving to themselves the right to sanction or disapprove our work; as it may be presumed they would not yield their acquiescence to any system of government which did not meet their approbation.

This general principle being laid down, which may be considered a satisfactory response to the argument that we should not go beyond the letter of the stipulations in the act calling the Convention, I come to the question directly at issue; and I would

here remark that the delegate from New Orleans (Mr. Marigny) has misinterpreted the appeal made by the gentleman from New Orleans, (Mr. Benjamin) to his colleague (M. Soulé.) That appeal was a vivid exposition of the feelings of the human heart, and of the sentiments and emotions which the Deity has implanted therein. I am of opinion that these emotions and sentiments are paramount, whatever may be said to the contrary upon this and similar questions, and which would tend to establish that a man who crosses the Atlantic and comes among us, is as susceptible of entertaining American feelings, and of being indoctrinated with them with the same facility, and to as great an extent, as a native born citizen who has imbibed them from his infancy. I deny this most emphatically. I believe it to be a delusion. Nor can I admit the right of foreigners to complain, if the native citizens of the country should think fit to stop the privileges that have heretofore so liberally been accorded to them. The United States is the patrimony of native Americans; and we have a perfect right to prescribe how far foreigners shall be allowed to participate with us, or whether we shall suffer them to participate at all in the administration of our government. Their persons and property being protected, they have no right to ask anything more; for this is all that is accorded by the most liberal and enlightened nations of Europe to the native citizens of the United States, while in their dominions.

I now come to treat of the constitutionality of the provision excluding foreigners from holding the office of governor of the State. And here I will take occasion to say, that far from me is the design to wound the feelings of any that may be born in a different hemisphere from our own, in the remarks I may make. Nor is it my intention to dispute the rights of those persons that are already naturalized; their rights, in my judgment, are as sacred as those of native American citizens. I regret the existence of the naturalization laws, but as long as they are in existence, I am for respecting them. My object is only for the future, and I would be the first one to sustain an amendment that would do away with any misapprehension upon the subject. I would not do this as a concession to the menaces that have been made, and the doubts that have been raised as to our power; but because I conceive it to be just and proper to recognize in the most positive manner the just pretensions of those who were citizens at the adoption of this constitution.

The gentleman from New Orleans, (Mr. Soulé) has fallen into a singular misconception in relation to the federal constitution and the original articles of confederation, that surprise me—coming from one so able and distinguished as a jurist. He calls the articles of the confederation the old constitution, in contradistinction to what he terms the new constitution; and seems not to be familiar with the character and extent of that original instrument. The powers of the general government under it were very limited; the states retaining the uncontrolled exercise of most of their sovereign powers as independent communities. When it became manifest to them that such a system was impracticable for national purposes, they, yielding to the exigencies of the case, met in convention, and conceded as much power as was requisite to give force and stability to the general government, and enable it to act in its general sphere. All other powers not expressly delegated to the federal government by the compact—the constitution—were reserved to the states respectively, or to the people. This is the fundamental principle which restrains the federal government and restricts it within certain limits, beyond which it cannot go. So far as it keeps within these limits, it is supreme and absolute; but beyond them it cannot go without encroaching upon the reserved rights of the states. If this principle were to be impaired, the just balance between the states and the federal government—the equilibrium between them—would be destroyed, and our federative system would be brought to a violent termination. The delegate from New Orleans (Mr. Soulé) confounds the true state of things. It is not the federal government, as his argument pre-supposes, that formed the states, but it was the states that formed and established the federal government. As I have premised, the states conceded only as much power as was indispensable to the functions of the federal government, and no more. The states, in other respects, retained their sovereignty, and have consequently the undoubted right

to administer, as they may judge best, their own local affairs. The federal government does not pretend to interfere with them, nor would her interference be submitted to. There is nothing in the constitution to authorize it; for the states, jealous of their rights, have made in that instrument an express grant of powers, and what has not been expressly granted is expressly retained. The general government has no more right to regulate suffrage in a state than it has to say who shall be eligible to the offices of the state; and, in order to prevent any misapprehension, we find in the amendments to the constitution (art. 11) the following distinct enunciation: "The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people." And in article 12, the following: "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

That the states or the people retain these powers is apparent from the fact that the general government has no other power than what is delegated to it by the states, and consequently those powers not delegated reside, as heretofore, in the state, and is part of their inherent sovereignty. The converse of this proposition would convert the federal government into a central government, and would place the state governments as mere appendages to its power.

Great stress has been laid by the gentlemen that have appealed to the constitution, as determining the want of authority in the state to insist upon the qualification of native citizenship for a particular station, that by a certain article which they have quoted, citizens of one state shall be entitled to all the privileges and immunities of citizens of the other states; and that, in virtue of that article, we have no right to inhibit any class of citizens from our sister states to hold office and to be eligible thereto under our state government. It is evident that the language of this section will not bear the construction attempted to be placed upon it. But, to exhibit at once what this construction would lead to, it is only necessary to remark that it would make a colored citizen of Massachusetts, or any other of the free states eligible to office among us. The absurdity of that construction must be apparent, which would lead to such a result; and yet, if we have no right to discriminate, the only question which would have to be resolved would be the citizenship of the individual in any one of our sister states; and if he were a negro, we would be bound, if he were a citizen, to admit his eligibility.

How, asked Mr. Lewis, does the delegate from New Orleans, Mr. (Soulé,) get rid of the authority of the State to prescribe the condition of native citizenship among other qulifications for governor. He cites a passage from the Federalist, which, referring to the powers ceded by the States to the federal government, and written for the express purpose of securing the assent of the States, deprecates any attempt to exclude foreigners, and to draw a line of demarcation between them and native citizens. This language in the Federalist at that day, had some pretext to excuse it, but in my humble conception, it would have been much better for the permanent interests of the country, had the policy of naturalization never existed.

Another delegate, (Mr. Roselius,) has attempted to destroy the argument of expediency in favor of the principle before us, by lessening the responsibilities and the importance of the office of governor. He has favored us, too, with an eulogium upon the merits of naturalized citizens, and shrinks with evident feeling from the term foreigner, applied to them. I cannot see any thing so very distasteful in this expression, and that it can be construed into an insult to remind a man of the country of his birth. For myself, on an occasion when I was in Canada, although I was still in America, and on the very borders of the United States, I felt as a foreigner, and if any one had told me that I was a foreigner, a citizen of the United States, I certainly would not have been ashamed of it. The title of citizenship conferred by adoption does not obliterate the register of ones birth-place, nor does it divest a man of his natural predilections. Whatever, therefore, may be said to the contrary, a foreigner continues to be a foreigner—be he naturalized or not, and only ceases to be such, when he returns to his native country.

I have great deference, said Mr. Lewis, for the opinions of eminent men, and when

one's own judgment is in suspense, I think the weight of their authority may well be invoked to decide a controversy. In the present case there is great conflict of opinion, and it may be expedient, although the authority of great names is not always conclusive, to place some reliance upon the declarations and actions of men who have been conspicuous among us for patriotism and intelligence. To the three great names cited by the gentleman from New Orleans, (Mr. Benjamin,) as favoring the principle which has been characterized in this house as odious and exclusive, I may add the name of Daniel D. Tompkins, president of the convention of New York, which formed the present constitution of that State, excluding naturalized citizens from the office of governor. It has been intimated that we are behind the age—that we, who support that principle, are seeking to revive old and exploded distinctions. If we are obnoxious to the charge, it is some consolation to know that we are in tolerable good company. There is one of the great champions of "the democracy" with us—Martin Van Buren, who was a member of the New York convention, and sustained the adoption of the same principle in the constitution of that state, if I mistake not. Other names, of other distinguished men might be added, but it is not worth while.

It is not alone upon one point that the opposition have shown great susceptibility. The simple apprehension that has been expressed that there would be danger in having a naturalized citizen governor in the event of a war with the nation of which he was originally a subject, has excited a great deal of feeling. The gentleman from New Orleans, (Mr. Marigny,) has auricularly foretold that we shall never have a war except with Great Britain.—That as to a war with France, that was utterly out of the question. It cannot possibly happen. The progress of civilization in France has been so great, and the liens of attachment that bind us and France together are so strong, that war is impossible! We may expect hostilities with England, and then we may count on the assistance of the French nation to help us to give John Bull a thrashing, for the French people have an inveterate hatred to Englishmen. I do not know why there would be greater probabilities of a war with one than with the other nation. The mass of the American people are descended from the same race as the English. We have derived from the parent state most of our institutions, and many of our great franchises. The writ of *habeas corpus*, the right of trial by jury, &c. &c. War, however, may occur with both, and if it does, we should have enough national feeling to carry us successfully and honorably through the contest. Unfortunately for the gentleman's predilections, the great friendship entertained in our behalf by that nation, was not sufficient to induce her to pay a certain indemnity, which she had procrastinated for years and years, and which was only recovered by the firmness of that great and good man, General Jackson, during his presidential term; when war was presented by him as the only alternative, in case the money was not paid. It has been said that several adopted citizens, Frenchmen by birth, when war was anticipated as the inevitable result of the misunderstanding, immediately declared in this city their intention not to take up arms against their native country.

I can very well understand the gentleman's (Mr. Marigny) predilections. I understood him to boast of his French origin, and to declare that he represented six generations of Louisianians. I cannot go as far as the gentleman. I have lost my genealogical tree, and I cannot trace my family much this side of one of the sons of Noah, who after the deluge peopled our globe.

The love of country is one of the strongest feelings of the human heart. It is exemplified in the Swiss, who pines away and dies, unless he can return to his barren mountain and to his solemn glaciers. It is admitted to be all-controling by the member from New Orleans (Mr. Roselius) who has depicted the strength and durability of schoolboy reminiscences, which, he says, nothing can eradicate. For myself, said Mr. Lewis, I confess I am under the influence of an undying love for the land of my birth, and I cannot conceive how any man, who is not devoid of honor, can be insensible to that sentiment. I believe it burns in the breast of every man. And, if a foreigner were to tell me that he preferred the United States to his own country, if I could believe him, I would think him unworthy of being the citizen of any country.

The gentleman from New Orleans, (Mr. Roselius,) tells us that in the transport of attachment and fidelity to our country, naturalized citizens would repair to the field of battle on the first appearance of danger, and that they would imbrue their hands in the blood of their brothers and of their kindred. If this be not a stretch of the imagination, it is a paradox against which both nature and reason protests.

Mr. Lewis disclaimed the intention of wounding the feelings of any one that had sought a refuge from the privations and tyrannies of European governments, under the shadow of our liberal institutions. But, he considered it was impossible for a man to forego or be insensible to the love of country, whether he were born in the United States, in England, in France, in China, or in the empire of the Mogul. If I were to abandon my native country, (said Mr. Lewis,) and become a citizen of another country, I could never raise my arm against the country of my birth. I could never shed the blood of my fellow countrymen on the field of battle. The most cruel tortures would appear to me preferable to this horrible sacrifice of the dearest and tenderest ties; and I cannot believe the love of country is less fervid in the bosom of others than in my own.

The gentleman from New Orleans, (Mr. Marigny,) has adverted to the daring and heroic deeds of the French citizens who were resident in New Orleans in 1815. Their devotion is easily understood. An inveterate hatred towards the English nerved their arms, and not any particular fondness for our cause. Had it been a French instead of an English invading army, would the result have been the same? I question it very much. Even as it was there was disaffection. Louallier, a subject of France, and citizen of the United States, a member of the Legislature, issued inflammatory appeals to his countrymen, and resisted the authority of the commander in chief, invoking the interposition of the French consul. I was well acquainted, (said Mr. Lewis) with Louallier. He was a most estimable man, and we were upon such habits of intimacy, that he appointed me his executor at his death. He cherished his native country to the last, and invariably gave to it the preference, as all foreigners do, although it is pretended that they are better Americans than the natives of the soil; because the latter are Americans by necessity, as we are tauntingly told, the former through choice. So it is said by those who are their panegyrists! I again repeat that I have no hostility towards any class of citizens—but I do think we should cherish a national character—a love of country.

A great deal of stress has been laid upon the services which, it is assumed, we received from foreigners during our revolutionary struggle. Washington was certainly in a position to appreciate those services? And what was his testimony? That all the foreigners were mercenary and untrustworthy, with the exception of Lafayette.

It is an error to suppose that this apprehension of foreign influence is something new—something that has originated, as we are told, with the party excitements of the day. Such is not the fact. The father of his country, the great Washington in his farewell address, admonished his countrymen to beware of foreign influence. The patriarch of democracy, the man who is most eulogised by those who profess to be the sole exponents of democratic principles, Thomas Jefferson, wished that there was an ocean of fire between the United States, and the Kingdoms of Europe. Were these men excited by temporary and evanescent resentments. Were they disappointed partizans, or were they convinced by their own sad experience of the danger that menaced their country? It seems to me, (said Mr. Lewis,) that this is a question in which every American must feel an abiding interest, and if naturalized citizens are as devoted to our country as we are told they are, and as attached to our institutions as is assumed, they ought not to entertain any other than purely local feelings upon this subject, or feel differently from the natives of the country.

Mr. Brent, said that he regarded the action of this convention, so far as related to the section under debate, as of but little importance in the practical operation of the government. The probability was extremely remote, that any naturalized citizen would ever be elected governor of the State. and so far as that particular office was concerned, it was wholly imma-

terial whether the prohibition be adopted in the constitution or not. But if the principle be true, that a naturalized citizen, invested with the rights of citizenship by the act of congress, and the decree of a competent court, is not worthy to be trusted with the office of governor, the principle cannot, and must not, be permitted to stop here. If a citizen of foreign birth be so suspicious, that you cannot trust him with the administration of the laws, I, for one, cannot consent that he should sit around our council boards, to assist in framing the laws by which we are governed, and above all, I cannot consent that he should ever be permitted to minister as a high priest at the altar of justice. No, sir, the door of the constitution must be closed effectually against him, and it is our high and imperative duty, to sweep all the departments of government, with the besom of Native American reform. The executive department is confessedly less important than the legislative or the judiciary. Are you to exclude the adopted citizen from an office of minor importance, only to invest him with more heavy and more weighty responsibility? I can never consent to this.—The principle is either a good one or a bad one. If a good one, it must be pushed to its consequences, if a bad one it must be utterly discarded and rejected. A grave and momentous question of principle is then submitted to our consideration, and it becomes the convention to pause and ponder well upon the decision which it is about to pronounce.

We were told on Friday last, by a delegate from New Orleans, (Mr. Benjamin,) that he had decided this question, first, by his feelings, and that afterwards his reason had justified the decision. I must be permitted to say, sir, that the delegate has taken an unsafe counsellor to his bosom, that will be apt to lure him from the path of duty, into the mazes and perplexities of error.—If our judgment is to be clouded by the mists of feeling and prejudice, how can our decision be such as would best suit our own honor, and promote the solid and permanent good of our common constituency! We are not merely legislating for ourselves, or the age in which we live, but we are legislating for the unborn millions who are to come after us, and fill the places which now we occupy. Our aim should be to reach conclusions that will stand the test of time and scrutiny, and not such as are based upon the unsteady and treacherous foundation of the evanescent feelings of the hour. I have the advantage of that delegate. I have no feelings, no antipathies, no predilections to gratify. Whatever conclusion I have arrived at, has been reached by my judgment, unmingled and unalloyed by feeling—by either hate, or passion, or prejudice. It has been repeatedly asserted in argument, that there was a party in this convention who desired to dispense with every qualification for office. If such a party exists, I have no knowledge of its existence. I have maintained, repeatedly, that there should be no higher qualifications for office than what is required to exercise the right of suffrage. That principle I will never surrender, until my confidence in popular government is overthrown and destroyed.—No argument has been urged to show its impropriety, nor can any be advanced, consistent with democratic notions of government. The qualified electors are the sovereigns of the state. As the depositories of political power, they hold in their hands the issues of life and death. All offices hold. or ought to hold, their tenure from them, and they decide, through the ballot box, all the great political questions that are agitated before the country. Should this tremendous power be confided to men whom you are forced to disqualify from holding the very offices they have created? You permit them to vote, and by their vote, perhaps, to sway the destinies of this great nation, and yet you will not permit them to be voted for. Can a greater absurdity than this be conceived? The creature is elevated above the creator. The very order of things is inverted, and the governmental pyramid stands upon its apex. Instead of our institutions reposing upon the broad foundation of the popular sovereignty, it seems to be supposed that its stability can only be secured by a reliance upon the officers and agents of the people,—From whence was the doctrine derived, that the agent is greater than the principal? Such a doctrine I repudiate; for it is neither legally nor politically correct.

It is to be hoped, sir, that after this explanation, our principles will not hereafter be perverted or misrepresented. Here we

plant the flag-staff of democratic equality. Gentlemen may fight under whatever flag they please—I stand here to defend this banner, and if need be, to perish in its defence.

A leading object in this convention appears to be, to impose restrictions on the people. In the parish which I have the honor in part to represent, there were but thirteen votes, as well as I recollect, against the call for a Convention, and some seven or eight hundred in its favor. Had the idea suggested itself, that this body when assembled, would employ itself in imposing additional restrictions upon the people, instead of removing those that already oppressed them, the tables would have been turned, and the glorious thirteen would have alone voted in favor of the measure. The object however, was conceived to be very different from what has been advocated and avowed in this House. We supposed that it was to remove obstructions—to strike off the shackles, and not to forge new fetters to impede the people in the exercise of their undoubted rights. But, sir, I am digressing.

The honorable delegate from Opelousas, (Mr. Lewis) who has just resumed his seat, has endeavored to support the restrictive feature embraced in the present section, and he has urged a variety of arguments to which I desire to respond. And here at the outset, you cannot but remark the singular adroitness, which he and other gentlemen, on the same side of the question, have displayed in evading the constitutional argument which has been so earnestly pressed against them. They think they can carry their point, by bold and unfounded assertions—by appealing to the principle of the sovereignty of the States, and by invoking the authority of great names in their behalf. But, sir, we cannot permit them to escape the issue which is made between us, by a resort to any other authority than that of the federal constitution itself. I bring them back to the point from which they have wandered, and I hold them to the plain and unequivocal language of that instrument. Their arguments cannot stand the test of the federal compact. That instrument repudiates their narrow and contracted doctrines, and it settles with the voice of supreme authority, the question we are now discussing. What does it say? What does it declare? It says, "that the citizens of each State, shall be entitled to all the privileges and immunities of the citizens of the several States." These two lines adjudicate the question. They are plain and simple, and their meaning is apparent to any comprehension. Apply this simple declaration to that principle, which seeks to exclude a class of citizens recognized to be such, by the several States, and what becomes of the argument of constitutionality? But let me illustrate by example—suppose a foreigner, to have been naturalized in the State of Illinois, under the act of Congress, and by the decree of a competent court, admitting him to all the rights of citizenship. Under the laws of that State he is invested with all the privileges of an Illinois citizen, and is eligible to all the offices created by her constitution. He removes to this State, and is instantly struck with disability and disfranchised from holding the office of governor, whereas no such prohibition extends to the native citizen of any other State; can you say, that under these circumstances, "the citizens of each State are invested with all the privileges and immunities of the citizens of the several States?" Have you not disfranchised a citizen of Illinois, and deprived him of a privilege which you extend to citizens of the other States? And is not this a palpable and flagrant violation of the constitution! Sir, gentlemen cannot evade nor escape from the conclusion. The federal compact has denied to the States, any authority to create distinctions between different classes of citizens. All are placed upon the same broad platform of political equality, and no difference can be made between them, without nullifying and trampling under foot the fundamental law of the land. This State, in the exercise of its sovereignty, can declare who shall be eligible to the office of governor, provided, that in so doing, it does not attempt to create a distinction between American citizens. This is the only limitation upon its power, and to that limitation it ought to be, and it must be held.

But how sir, do gentlemen attempt to overcome this plain and palpable construction of the constitution? They tell us with an air of triumph, as if thereby the constitutional argument was utterly de-

molished, that some five or six other States of the Union have thought proper to adopt a principle similar to the one now proposed. I cannot conceive how the complexion of the argument is altered by this astounding discovery. Does one wrong justify another, or does the frequency with which a crime is committed, extenuate in any degree, the guilt of an offender? Are we to defend an usurpation of power, by quoting other usurpations? Upon this principle, every assassin who lifts his weapon against the throat of his fellow man, could justify himself by contending that others had been guilty of a similar offence.

But the gentleman from New Orleans, (Mr. Benjamin,) has referred us to a precedent in the Virginia Convention. He tells us that three of the most distinguished men in that celebrated Convention, to wit: James Monroe, the president of it, James Madison and John Marshall, were in favor of a similar exclusion. That they were members of the Convention that adopted the exclusion, is undoubtedly true, but that they supported it is not equally clear. On the contrary, my information leads me to a different conclusion. While the gentleman was invoking the authority of these great names, he forgot to tell us that James Monroe had withdrawn from the Convention on account of ill health, and was not present when this question was decided, and that James Madison had voted against it. As to Mr. Marshall, I consider it immaterial whether he voted for or against it. I think it more than probable he voted for it. No man entertains a higher opinion of him as a profound and learned jurist, than I do, but I am free to confess, I attach but little importance to his opinions upon political matters. He was a federalist in the days of the black cockade, and deeply imbued with all the heresies of that school, whose temporary ascendancy resulted in fastening upon the country, the odious alien and sedition laws, the most disgraceful legislative enactments that have ever blurred and blotted the statute books of the nation. That he sympathized deeply with his party in its hostility to foreigners, I doubt not, and is it to be regarded as strange, that under these circumstances, he should have clung to the tenets of that political school in which he was reared? I repeat, sir, that whatever others may do, I attach no weight or importance to the mere political opinions of chief justice Marshall. All that we have heard, then, sir, about these great names, vanishes into thin air, and the gentleman is left unsupported by the very authority on which he has relied.

The member from Opelousas (Mr. Lewis) has invoked the doctrine of State rights, against the authority of the general government, to establish an uniform rule all over the Union, in relation to the immunities and privileges of the citizens of any one of the States, in all the other States of the confederacy. He says the general government has no such right. I am happy to find the gentleman advocating the doctrine of State rights, and to hear him declare that he is a strict constructionist, which is not the creed of the political party to which he belongs. I am rejoiced to have the weight of his ability on that side of the question. But I cannot concur with him in the application of that principle to the question now under debate. State rights do not involve any thing more, than the assertion and maintenance of the reserved rights of the States: The right of admitting foreigners to citizenship, has been conceded to the general government by the consent of the States, and the States have likewise consented to the principle engrafted in the constitution, that no distinction shall be made between different classes of American citizens. How then is this an invasion of State rights? The gentleman is evidently mistaken, and the position which I have assumed, is beyond the cavil of the strictest constructionist, and the most astute advocate of State rights.

The delegate from Opelousas then proceeded to dilate upon that intense and deathless attachment to our native land which, he says, burns with a steady and undying lustre in every human heart. He spoke of it as universal, pervading all classes and conditions of mankind, and he attributed a power to it beyond that of any other sentiment which warms and animates the breast of man. I fear, sir, the gentleman has been disporting himself upon the fields of fancy, and that he has not only misread the book of nature, but misinterpreted or overlooked the instructive lessons of history. The theory of the gentleman may be a good

one, but it has nothing to repose upon but poetry and imagination. Against his poetry I will array history; against his fancy I will place facts.

Look at our revolutionary war; were there not numerous instances of persons born and educated in England, who had fought bravely and gallantly in her armies upon the continent, but who nevertheless threw up their commissions, and as officers and soldiers joined our standard and combatted nobly in our behalf, from the commencement to the close of that struggle? Hand to hand and shoulder to shoulder, they fought beside the natives of the soil, against the forces of the invader; and from Bunker Hill to the Plains of Eutaw, there was no battle field which did not reek with the blood of Englishmen, shed in the holy cause of freedom. The names of Gates and Lee, and a host of others, could be cited to prove that, in a good cause, brave and honest men will not hesitate to unsheath their swords against the land of their nativity. What now becomes of the argument which has been urged to show the impossibility of that which has so frequently happened? Can it be said, with the pages of history before us, that no conscientious man will take up arms to maintain the rights of mankind, against the country of his birth? Sir, honorable gentlemen who dispute this proposition deal altogether in fancy, and amuse themselves in the realms of fiction. History and experience are sad commentaries upon the tales of their imagination!

The argument of the delegate from Opelousas leads to strange and unnatural results. Although the immigrant is kindly and hospitably received upon our shores; although he is amply protected in person and property, by the parental care of a government which sheds its blessings as the heavens distil their dew; yet according to that delegate, his attachment to his native land is so absorbing that he cannot strike one blow in behalf of the land of his adoption, even though he may have been driven by tyranny and oppression from the home of his nativity. Is it the nature of man to forget evils inflicted or benefits conferred? I doubt not that the love of country is strong and deep-seated in the human heart; but like all other sentiments, it can be crushed and destroyed by unkindness and oppression. Why should the emigrant from Europe feel a stronger attachment for the home of his nativity than for the home of his adoption? From his earliest childhood, in the country of his birth, he has seen nothing around him but a people crushed and down-trodden by the iron heel of tyranny, writhing under the scourge of an imperious aristocracy, or plundered by the rapacity of a grasping and bigoted clergy. Were those scenes calculated to awaken the latent affections of his heart? Do you think that his memory would love to linger over those passages of woe, or that the emigrant would turn with joy from the spectacle of this free and happy people, to blast his vision, with the misery and pain and wretchedness which he had left behind? Forced to cross the wide Atlantic, by either religious or political persecution, he finds a home and an asylum, peace and protection, on our happy shores. Here he establishes himself; he builds up his fortunes · he surrounds himself with friends and family and kindred, and is it to be wondered at—is there any thing astonishing or unnatural in the fact, that he becomes identified with us in interest—that he reveres our institutions, and is ready to protect and defend them with his life? Is it remarkable that he should prefer the country of his adoption, with liberty and equality, to the country of his nativity, where there is a gloomy despotism and a constant restraint upon all his actions? To suppose the contrary, is to suppose something that would indeed be marvellously strange, and not at all consistent with the resentments of the human heart, for the insults and outrages of oppression. Is it natural for man to kiss the hand that smites him; or, like the frozen adder, to sting the bosom which warms him into life? Again I repeat, sir, that patriotism, like all other sentiments, may be eradicated by unkindness, ingratitude or oppression.

Do you not recollect that when Coriolanus was exiled by the decree of the three tribes, that he returned to Rome at the head of aforeign soldiery, determined to raze the city to its foundations—to give its temples and palaces to the flames, and strew their ashes on the gale—and that he was restrained from the work of vengeance; not by patriotism—not by love of country; but by the entreaties of his beautiful wife; and of

his aged and venerable mother? The fire of patriotism had been quenched by the wrongs inflicted on him, and it was entirely the operation of another sentiment, which was the salvation of Rome. History tells us that if nothing but patriotism had stood between him and his revenge, the eternal city, with all her pride and pomp, would have been laid in ashes by the hands of her injured and exiled son.

We have heard many fantastic notions advanced about the strength of early impressions, and the strong influence which they exert upon the character of man; and we have had poetical allusions made to the school-houses and orchards and play-grounds of our childhood, as if the heart of man could recieve no impression whatever, except in the tender years of early life. This is all sheer fancy, and the very extravagance of poetry. You can no more compare the ties of early association, to those stronger and more powerful feelings, which bind and rivet the heart of man in its maturity, than you can compare the first faint light of the sun, whice streaks the eastern horizon, to the blazing splendors of his meridian glory.

In discussing this question, an honorable delegate from New Orleans (Mr. Benjaman) referred to the glorious battle of the 8th of January, 1815; and it was with surprise and astonishment, that I heard him express a doubt whether we would have been triumphant on that occasion, if we had been forced to encounter the armies of France, instead of the armies of England. This is a slur upon the French population of New Orleans. This doubt is derogatory to the character of a high-minded and chivalrous people, who are as conspicuous for their attachment to our institutions and government, as any other class of our citizens. Do you suppose, sir, that if a French army had landed upon our shores, breathing war and vengeance, and threatening this city with rapine and violence, that there would have been a French sword in New Orleans that would have slept in its scabbard, and would not have started indignantly forth to protect and defend the city, or if that should be unavailing, to sweep to its revenge. I have too high an opinion of French chivalry to suppose that this class of our population would have been traitors to themselves and the land of their adoption, merely because the invaders were Frenchmen. No sir, the result, under any circumstances, would have been the same, and the flag of our country would have waved in victory above the lilies of France, as it did above the lion of England.

Why seek to deny the love of liberty in the bosom of others, when we feel it burning so strongly in our own? I yield to no one in attachment and devotion to my native land; but I love it not merely because it is my native land—not because my eyes first happened to open to the light of day upon its soil, but I love it for the same reason that William Tell loved the glaciers and ice-ribbed mountains of Switzerland—because it is the abode of freedom. Nature has showered upon her its richest gifts. Behold her lordly rivers—her giant lakes—her fertile valleys—her majestic mountains. Here it is that "boon nature" has scattered free and wild "her germs of fruits—her fairest flowers." But it is for none of these, that my heart warms to her with inextinguishable love. I love her because here it is we have established a government of freedom and equality—here it is we have asserted and vindicated the rights of man, and here we have established an asylum where the exile can lie down in peace, and where all are left free and undisturbed in the pursuit and enjoyment of happiness. I can well conceive how the same feeling which animates my bosom, can find a resting place in the bosom of the adopted citizen.

Hence it is, Mr. President, that I dislike all attempts to breed and foment differences among our population of different origin. What, after all, is the mere circumstance of birth-place? It is the man, and not the place of birth, that we should look to. Once recognize these exclusions and distinctions, and you can place no limit to the principle. Society itself will be broken up and divided into innumerable fragments, that have lost entirely the principle of cohesion. This clamor about the danger to be apprehended from foreign influence, is all sound and fury, signifying nothing. If you wish to have a dangerous and deadly enemy in your midst, you have only to disfranchise the foreign population, and you have at once accomplished the result. The disfranchisement itself will be a bond of union, and a hostile body will be organized

in your very midst, who, having no interest or participation in our government, will avail themselves of the first opportunity to strike it a fatal blow. If one solitary instance could be pointed out, where evil had been inflicted by the hand of an adopted citizen, there would be some show of plausibility in the arguments we have heard. But there is no pretence that in our past history, there is any thing which justifies this alarm. I must therefore recur to first principle, and insist that no distinction shall be made between different classes of American citizens.

But, Mr. President, I object to stigmatising our adopted citizens as foreigners. I make no distinction between an American by birth, and one declared to be such by an act of Congress and in pursuance of a judicial decision. An adopted citizen is not a foreigner. His rights are as sacred as those of the native, and he cannot be dispoiled of them without violating the fundamental law of the land. But, sir, if we permit ourselves to distinguish between different classes of our citizens, a due regard for our own safety will prompt us to provide against real, instead of imaginary dangers. The greatest peril which now menaces the south, comes from a different quarter from that at which this exclusion is levelled. I speak of the dangers which threaten from the machinations of the northern abolitionists, those wretches, who, in seeking to stir up our slaves to sedition and revolt, are hurling fire-brands, as it were, upon banks of gunpowder. You recollect, sir, the picture which was drawn upon this subject by the delegate from New Orleans, (Mr. Benjamin.) I cordially concur with him, as to the frightful aspect in which this question now presents itself. Would it not be much wiser, sir, to guard against this impending danger, the reality of which is acknowledged, than to attempt to shield ourselves against an imaginary peril. If these restrictions are to commence, let them be carried out, and let every one be excluded from office but native Louisianaians. If adopted citizens are to be disqualified from office because it is feared that some of the prejudices of early association may cling to them, the same disqualification should attach to the abolitionist, and to him who comes from the land of abolition. The State of Louisiana, surrounded by this Chinese wall of restriction, would then indeed be a new celestial empire.

I believe, sir, that the doctrine of native Americanism, is too narrow and contracted to take root in the soil of Louisiana. The people of this State can never be under the influence of that spirit of selfish exclusion. Besides, we have nothing legitimately to do with the subject. We were delegated to make a constitution for all the people of Louisiana, without regard to their origin. The question of native Americanism was not broached before the election of this body, and I conceive that we will entirely disregard our duty, if we seek to incorporate in this constitution, any principles which have not received the sanction and approbation of our common constituency I shall vote for the motion to strike out.

Mr. Beatty begged the indulgence of the Convention to make a few remarks, which his position to this question rendered appropriate and necessary. It was I, said Mr. Beatty, that first raised the question of constitutionality in reference to this clause, and suggested the propriety of striking it out. In my humble opinion, if it were to be retained, it would be of no effect; and the only point involved is, whether such a principle ought to be found in the constitution. Whoever will take the trouble of examining it carefully, will find that it creates not only an odious distinction among our citizens, but that it is repugnant to the spirit, if not to the very letter of the constitution of the United States. If foreigners are to be excluded from citizenship; if grave and weighty reasons exist for such a policy, let it be done. There is a legal and constitutional way; but a national way only, to effect that purpose. But when a foreigner does become a citizen in virtue of the acts of congress and of a judicial decision pronouncing him to be such, he is beyond all question invested with all the prerogatives, all the immunities, all the rights of a citizen by birth, and there is no power to exclude or to withhold from him any of his political franchises. If he be eligible to hold some offices, he must be considered as eligible to hold all. The principle cannot be suspended, and he be incapacitated from a particular station, and that too in the face of the fundamental law of the country that makes no distinction between him and other citizens. The exclusion in the section

presents but a very inadequate remedy, if there be evil resulting from the admission of foreigners to citizenship; and if these evils really do exist, it is not for this body to attempt to enforce a corrective, for it has neither the right nor the power to discriminate, and to say that this particular class of citizens are trust-worthy, and another class are not trust-worthy. That such a class of citizens shall be eligible to office, and another class shall not be eligible. If it were invested with any such authority, it would be competent to invalidate all the proceedings had for naturalization, and to declare that the proprietor of a certificate of naturalization was not entitled in Louisiana to the immunities and privileges of citizenship. That he was not entitled to suffrage, although he possessed all the essential qualifications of a voter.

I freely concede, said Mr. Beatty, and I am happy to hear the gentleman from St. Landry avow the doctrine, that the people and the States have certain reserved rights; but, the enunciation and substantive grants of power to the federal government in the constitution is exclusive of any reservation on the part of the States of the particular power which is granted. With reference to the power of naturalization, the States have conceded that Congress shall have the power of establishing an uniform rule of naturalization. Whether this were wisely done or not, answers not our purpose to inquire. It has been done, and is conclusive of the rights acquired in all the States of the union by the process of naturalization. It is likewise equally clear that the first paragraph of section 2d article 4th of the constitution, stipulating that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, contains no reservations, but is a universal principle, applicable to all citizens, and the only test of which is citizenship. It means, and can only mean, that a citizen of one State shall be placed on a precise equality as regards political privileges with the citizen of another State. It matters not, then, that citizenship be acquired by birth or by naturalization; and the constitution makes not the slightest difference.

But there are other political rights besides suffrage and eligibility to State offices which are directly involved, if this construction be not the proper one. If the Convention have the power to declare, in this constitution, that naturalized citizens shall not be eligible to the office of governor, they may declare that naturalized citizens shall not vote—that they shall not have the faculty of holding property—of having a trial by an impartial jury—of being informed of the nature and cause of any accusation that may be brought against them—of being confronted with the witnesses against them—of having compulsory process to compel the attendance of their witnesses—of being allowed the assistance of counsel—the right of habeas corpus, or any other of those political rights for which the national compact has provided. There is nothing in the constitution of the United States that establishes any of those rights more clearly and definitely than the right of political equality; and if the latter be invaded by declaring that a particular class of citizens shall be ineligible to a particular office in the State, then with equal reason, and with as much authority, may the State abridge any or all of the other political franchises of citizenship.

There is another striking objection, Mr. President, to this section. It is not only invidious and exclusive as regards the naturalized citizen in reference to the native citizen, but it would operate, if it were susceptible of practical operation, partially and odiously between the naturalized citizens themselves. An inhabitant of the State, although a foreigner by birth, at the time of the treaty of cession of Louisiana, would be eligible to the office of governor, while a native of the territory of Florida, born before the acquisition of that territory by the United States, would not be eligible to that office.

A reference has been had, during this debate, to the peculiar opinion of Chief Justice Marshall in favor of a similar principle of exclusion. For that eminent jurist I certainly entertain great respect, but I think his authority is entitled to but little weight in the solution of the question. In purely legal matters, where the constitutional power was not involved, his dicta is always sound; but upon constitutional questions I know of no worse guide. He invariably lent towards the power of the government, and where there was no express

grant, was always ready to imply one upon the slenderest pretences.

Some stress has been laid, in this discussion, upon the assumption that a similar principle has been embodied in the constitutions of one or two of the new States, and have obtained the acquiescence of the federal government. There is no weight in that argument, and I do not think it merits more than a passing notice.

To the argument of a deficiency in constitutional power to deprive the citizens of the other States of the same political privileges and rights which we enjoy, it is agreed that if this doctrine be true, it might lead to an absurd result. That a negro in Massachusetts might be vested with the privileges of citizenship by that State, and that consequently he necessarily, under that construction, would be entitled to all the privileges and rights of a white citizen of that State in Louisiana. To this I would reply, that the constitution of the United States never contemplated any other than the white population in its dispositions of government; and that an absurd inference cannot be an argument against the principle itself.

Mr. Ratliff said he rose less with the expectation of influencing the minds of his colleagues, than to discharge a solemn duty to his constituents. Much has been said upon this question, and ably said by the opponents and the advocates of the principle. I consider it, Mr. President, as an entering wedge, and if we sanction it, it will be but the prelude to other and more general exclusions.

So much has been offered (said Mr. R.) upon the constitutional points by gentlemen more competent than I can pretend to be, that I will dispense with saying any thing upon that head. The delegate from Rapides (Mr. Brent) has well told you that as to the practical operation of this principle it would be well, and that it was only objectionable because it was restrictive, and an invidious discrimination between the rights of one portion of our citizens and another portion of our citizens. Our own experience proves how remote is the possibility that an adopted citizen will fill the chair of State. In thirty-two years, which dates our existence as an independent State, we have only had one adopted citizen elevated to the chief magistracy of the State. According to that result, to authorize the apprehensions entertained of an adopted citizen filling the chair of State at the period of an invasion, a cycle of thirty-two years would have to revolve, and even then there would be no danger unless the person holding the office of governor was a native of the country waging hostilities against us; for it is not assumed that there would be any danger in a citizen from any other country, or that he would be less faithful under such an emergency than a native citizen. The only peril would be that the governor for the time being chanced to have been born in the country with which we were at war. The improbability of any such a contingency is so palpable, even if we admit that an adopted citizen would be recreant under such circumstances to his adopted country, which I am far from believing, that it is truly astonishing that so much time and so much eloquence has been spent to alarm and excite our imaginations, when a little reflection would show us that it was a mere phantom.

But, admitting Mr. President, for the sake of the argument, that such a thing might happen, why attach greater danger to Frenchmen than to Englishmen, Scotchmen, or Irishmen, should a Frenchman happen to be the governor of the State? I am sorry to see a particular direction given to these assaults; for experience has shown us that the French people have always been the devoted friends and allies of the United States, and that as adopted citizens they are remarkable for all those qualities which characterize them as a brave, chivalrous and intelligent race. As for what has been said of the attachments to one's place of nativity, and that it would be something monstrous to expect an adopted citizen to fight against his native country in the event of a war with it and the United States; and to meet in mortal combat his brothers and relatives---his former countrymen—it is only a flight of the fancy, for we have seen in our revolutionary struggle, father fighting against son, and brother against brother; and the same people contending against each other, for the United States were then a portion of the British empire; the heroes of our revolution were the descendants of Englishmen, and were reared from their earliest infancy with as much loyalty towards the crown as

if they had been born and reared on the other side of the Atlantic. Their subsequent hostility to the crown is conclusive that early impressions do not exercise a controlling and exclusive power over us.

I fear me much, said Mr. RATLIFF, that these and similar exclusions, have had their rise in party disappointments. The honorable delegate (Mr. Benjamin) has told us that his advocacy of the proposition proceeds from the dictates of his heart; that this is the monitor that has counselled him. If the honorable gentleman will consult his reason, he will find that this is not the counsel of his heart. That his judgment and his reason have been temporarily overcome by the defeat and disasters of the November presidential campaign. The delegate (Mr. Benjamin) on another occasion spoke eloquently of a little cloud, no bigger at first than a man's hand, which is now overshadowing the political horizon. When, during the presidential contest, that gentleman and his political associates were admonished of the appearance of that cloud, when they were warned of the danger, they treated it as visionary, as intended to operate upon the election and to secure the success of the democratic candidate. But now the gentleman comes over to us. He sounds the alarm and tells us that we were right---that there is danger, and we should avoid it by union and harmony in our councils. That the day is fast approaching when there will be but one party, and that all other considerations will merge into the necessity of guarding our homes and our firesides from the ruthless spirit of northern fanaticism. Let the gentleman sustain this position and he will be right. But how are we to guard against the danger which he anticipates? By dividing and distracting our communities, and establishing insidious and odious distinctions among them? The gentleman did not contemplate this, when he spoke so mournfully and so prophetically of the dangers that environed us! Why then make these odious distinctions? Why inculcate a feeling of distrust and mutual jealousy? Naturalized citizens are every way identified with us, as experience amply proves, and would be as ready to resist abolition, or any other evil with which we might be menaced, as native citizens. They would be as true to us in war as they are true to us in peace, and as ready to take up and defend the common cause, whether it be assailed from within or without. Why then exclude them? Why then tell them that they are unworthy of trust, and that there is one station beyond their fidelity? If they are unworthy to hold the office of governor, should the partialities of their fellow citizens elevate them to that post, they are unworthy of holding any civil or military employment, (especially the latter.) You should exclude them from all. If their fidelity be so deficient that there be danger to trust them with the office of governor, then the principle of exclusion ought to be carried out. They are unfit to be representatives to your legislature, to be senators, judges—to be sheriffs, or even constables. Exclude them altogether, if you have the power.

Mr. BENJAMIN rose to correct the delegate from Rapides, (Mr. Brent,) particularly in one point, where that gentleman had seen fit to controvert his (Mr. Benjamin's) statement, that Mr. Madison, in the Virginia convention, gave his sanction to a similar principle in refereece to the office of governor. The delegate from Rapides denied this fact, and also asserted that Mr. Monroe was not present when the question was taken, and therefore did not vote for it. It was true Mr. Monroe was not in his seat, owing to indisposition, when the section finally passed, but upon examination it would be found that his name was appended to the constitution, as well as Mr. Madison's; and it was quite clear that if either of those distinguished statesmen had disapproved of the principle, or had considered it in conflict with the constitution of the United States, which it has been here alleged to be, they never would have put their names to that instrument. There was, however, in reference to Mr Madison, still more direct testimony, establishing conclusively the fact that he sustained in the convention this very principle. [Mr. Benjamin here read an extract from the Debates in the Virginia Convention, page 722.] It is the gentleman from Rapides who is in error as to the point of fact, and not I.

Mr. PRESTON: It was on my authority that the delegate from Rapides (Mr. Brent) asserted that Mr. Madison did not sanction,

as asserted by the member from New Orleans, (Mr. Benjamin) that principle of exclusion. In going from the Convention, I mentioned it casually to the delegate from Rapides, as being my impression from a perusal of the report of debates in the Virginia Convention. I did not consider it a matter of much importance, and did not expect to have my statement called into question. But if the Convention will indulge me for a moment, I think I can establish it by a reference to the debates.

Mr. Brent: While the gentleman from Jefferson is examining the reports of the debates, I will take occasion to refer to the point of difference between the delegate from New Orleans (Mr. Benjamin) and myself. That delegate concedes I was right in reference to Mr. Monroe, who I stated was not present when the vote was taken. As to the inference drawn by the member, (Mr. Benjamin) that because Mr. Madison and Mr. Monroe signed the constitution, they approved of every thing in it, I beg to differ in opinion with that gentleman; their signatures are by no means conclusive of any such fact. Because they considered, as a whole, the constitution was a good one, does it follow that they approved of each and every part of it? I expect to place my name at the end of the constitution we are now forming, and yet I have bitterly opposed what I considered exclusive and odious restrictions upon the right of suffrage and the qualifications of representatives to the legislature; and hereafter, with equal justice it may be pretended, because my signature is appended to the whole constitution, that I approved and sanctioned those restrictions.

Mr. Preston: I find that Mr. Monroe, on account of the prostration of his health, was not present when this matter was acted upon. Mr. Powell moved a substitute for the section requiring that none should be eligible to the office of governor but a natural born citizen, and proposed in lieu thereof that none should be eligible but a citizen of the commonwealth for — years. Mr. Madison, it appeared, voted for this substitute; but the language of the report, I admit, is somewhat ambiguous. Be it as it may, the position of Virginia and the position of Louisiana, in respect to this matter, are so dissimilar as to render this precedent of no possible weight in our deliberations.

Mr. Benjamin said that he was anxious to set this matter right, inasmuch as his statement had been controverted, and it might be inferred it was his design to mislead the Convention. He explained to the Convention how it happened that Mr. Madison voted in favor of the substitute of Mr. Powell. The discussion had turned upon the question whether the governor should be elected by the legislature or by the people. Mr. Powell's substitute comprised a section upon that subject. It was that the governor should be elected by the people; and upon that question Mr. Madison voted aye. The yeas and nays were not called for on the passage of the section, as it is embodied in the Virginia Constitution, excluding foreigners naturalized. The question was taken simply upon its adoption, and according to the reports of the proceedings, both Madison and Marshall were present, and the section was adopted *nemine contradiscente*. I was right, said Mr. B., in what I asserted, and I am borne out in it by the records.

Mr. Grymes said that if he had entertained the slightest doubts upon the expediency and constitutionality of the proposition, the debates that had taken place would have dissipated them. He alluded particularly to the remarks of the two learned and distinguished delegates from the parish of Orleans, (Messrs. Roselius and Soulè.) Not a single expression has escaped from those gentlemen that has not filled me with apprehensions for the future and pain for the present. I will not undertake the idle task of refuting the constitutional objections that have been urged, because I consider that one of the gentlemen (Mr. Soule) in attempting to establish their validity, has incontestibly established, to my humble conception, that they have no foundation.

As for the sylogism drawn from the sickness of Mr. Monroe, and the singular construction that has been placed upon the signature of Mr. Madison affixed to the constitution itself, I have but one remark to make, and that is this, that it is a dispute upon a matter of no consequence; for be that as it may, the principle is the same. One thing is clear, that Mr. Madison never would have suffered the section to have escaped

his scrutiny, if there had been any conflict between it and the constitution of the United States, as has been strangely assumed in this Convention. The report of the debates show, moreover, that the clause was not in the original report—that it was suggested by an amendment—that to this amendment, Mr. Powell proposed a sub-amendment, and that the whole matter was more or less discussed. It may hence be concluded that it could not have passed unnoticed, both the attention of an intelligent and observant people and the scrutiny of an active and penetrating press. It may be, as has been said by one of the delegates, that what is suited for one locality is unsuited for another. But as to the principle involved violating the constitution, that is out of the question, for such a violation could not have escaped the attention of the distinguished statesmen to whom my colleague (Mr. Benjamin) has referred, and never would have found its way in an instrument which they participated in making.

But to proceed with the question of expediency. How have the learned and eloquent gentlemen (Messrs. Soulé and Roselius) established that this principle is inexpedient? To my humble judgment, all that they have said upon this point, proves the very reverse of what they have assumed. In refuting their arguments, which I flatter myself I shall be enabled to do, I shall refute the arguments of those whose views they may be supposed particularly to represent—for the distinguished position they both occupy—the brilliant career which they have pursued—the enviable reputation they enjoy in this community, and the numerous marks of popular favor they have received from their fellow citizens, whose enthusiasm they cannot but appreciate, induce me to take them as the model, and I trust they will not be offended with me for so doing, if the class of citizens who would be affected if the principle under discussion were to be engrafted upon our constitution.

The zeal, says one of these learned gentlemen, which is displayed in favor of this principle of exclusion, deserves a severe rebuke, because it was an emanation of jealousy, prejudice, and a most inveterate antipathy towards foreigners. What does he mean by this? One of two things—either that this discreditable and unworthy sentiment actuates the members of this Convention who sustained the proposition, or that it is an inherent vice in the American character. If it be designed for those, who in the Convention have sustained the proposition, I ought perhaps, as one of that number, to return him my acknowledgments for his reprimand; but I doubt much whether he has any just cause of complaint, be it against whom it may. The adversaries whom he may have met at the bar in his professional career, are not enemies of his renown, and the esteem and homage that are paid to him ought surely to be sufficient to satisfy him, without charging his confreres of being jealous of his progress. If, on the other hand, his allusion is intended to be general, and to depict the defects which he has found in the American character, I would ask him, how is it that he has attained, among the American people, so high a notch in the pinnacle of fame, and that honors and distinctions have so lavishly been bestowed upon him? How is it that the other gentleman has also attained similar distinctions and similar rewards? Was it through the naturalized citizens alone that they were enabled to attain their present exalted positions, or was it through the generosity and liberality of native Americans? They must take the one or the other horn of the dilemma. If they pretend that it is to their fellow naturalized citizens that they are indebted for their successful career, and it be assumed by them that they have met with only jealousy and antipathy on the part of the native citizens, it is high time that we should think of protecting ourselves—that we should establish some place of refuge; some mound where, like the Indian, we may die in peace, without loosing the type of our nationality.

I do not imagine that they are very solicitous whether we retain that peculiar type or not. It is quite probable they would see us confounded and lost among the European herds that swarm upon our shores, with infinite satisfaction. But I trust we will take better care of ourselves, and without designing to depreciate other nations, or elevating the United States above them, I may say that we are deeply interested in retaining our national character, be it for weal or for woe. It is true that we have been told that the natives of this country are slow of apprehension—that we stand in need of the stream of intelligence that flows upon us

from Europe, and should be duly sensible of their continued efforts to elevate us in the scale of civilization. I admit their greater proficiency in the arts and sciences, but I am not less attached to our simple and humble pretensions. I think we should preserve our national traits as they have been handed to us by our ancestors, who formed us into a nation and bequeathed to us our liberties, and we should be excused if we prefer them to those of other nations.

What do the gentlemen mean by inalienable rights, of which they have spoken so emphatically? Do they mean that the innumerable embroys of citizens that spawn from the sources of the Neva to the mouth of the Rhine, and from the mouth of the Rhine to the straits of Gibraltar, are possessed upon reaching our shores of vested rights; for if they are, and we are without the power of imposing restrictions and prohibitions upon them, it is clear that we might as well abandon our country at once. Such a pretension is offensive to nature! I must presume that those who set it up do not comprehend, do not appreciate our institutions; and when I see them cutting and hacking away at the fundamental basis of our social organization, to carry out their singular and dangerous doctrines—they who are capable and intelligent men, I cannot but fear the ignorant and the dissolute of the class whose pretensions they so warmly espouse, to the exclusion of the native citizens of the country! What are we to do with the masses, if their leaders are carried so far away by the counsels of presumption?

With such notions as these, I can well understand that they detect some lowering clouds upon the disc of our political horizon, threatening us with violence and strife. They predict to us a civil war, and exhort us not to precipitate it. Between whom is this civil war to be waged? Will it be between the naturalized citizens of one nation, and the naturalized citizens of another, or will it be waged by the combined force of the naturalized citizens against the native citizens? Is it come to this, that in our own country, in our own homestead, we cannot determine upon the qualifications of our governor, without exciting those whom we have received with hospitality—with whom we have generously shared our political privileges; but who now turn round and defy us to preserve one little mark of our nationality at the peril of a sanguinary struggle; of a civil war! Surely, it is time for us to reflect seriously upon our position. Our liberties are endangered. The first assault will be made upon our state government, and when that is reduced to a mere corporation of the republic, this hetrogeneous mass will still complain of unnecessary rigor. They will call for the repeal of that article in the federal constitution, excluding them from the office of President, and will never be satisfied until they have placed one of themselves in possession of the chief executive power of the Union. The descendants of those that achieved the independence of the United States, and established its liberties, will be swept away by the tornado, and not a vestige will be left to tell of their existence! Methinks I already see that destructive movement---that dead level without limit—that universal platform, upon which there will not exist declivity enough to carry off the putrid evaporations. Like the waters of the dead sea it will cover the surface of the United States, and I was in hopes at least, that there should be one elevated spot where we might seek refuge and safety, and leave the strange fish that were congregated below us to perish by themselves.

These gentlemen, said Mr. Grymes, arrange every thing to their own fancies. They resolve at will all difficulties, and overcome all obstacles. Foreign nations could not do better than to be regulated by their counsels, for they tell us that wars hereafter are impossible. No one desires more sincerely than I that their predictions may be fulfilled, but I must acknowledge that my confidence in the future is not equal to theirs. That which has been in all times may very well be again, and if it does happen, how are we to obviate the temptations that may be set before a governor of foreign birth? That, we are told, is a matter of no difficulty. The legislature may prescribe that the governor shall not command in person, and the danger, if there be any, in that way may be avoided. Is not the position taken to relieve us from the difficulty evidently ridiculous? The State elects a governor, and at the very moment when his services become the

most essential, the legislature ordains that he be dressed up like the Grand Lama, and exhibited to the enemy in a glass case. Such arguments as these make me doubt the judgment of those who urge them. Every thing that savors of the ridiculous in matters of government, fills me with regret.

I was misunderstood by those who have commented on what I said, in reference to the partiality which a naturalized Governor would feel for the citizens of the country that gave him birth, and that hence I inferred that none but a native citizen should hold that office. I meant that a native citizen, who might be the governor, would act with impartiality towards all the various classes of naturalized citizens in the State, whether German, French or Irish, and that it would be easier for him to keep the equilibrium than a governor taken from any one of the different populations; and this opinion I found entirely sustained by what fell from one of the honorable delegates, (Mr. Roselius,) who acknowledged the existence of a natural affection for the land of our birth.

To my mind, the man that can suppress that feeling, is nothing more than a painted sepulchre; guilded without, but rotten within. I cannot believe in the devotion of such a citizen to the land of his adoption. It is because I fear the collision of races, and that I wish to see the type of our nationality preserved, that I would fain snatch the office of governor from the dead level that will swallow up our institutions and blot us out from the list of nations. Any one who wishes to retain our identity as a people will then be with me. It is time that we should put some limit—that we should prescribe some check to guard our institutions. Otherwise we shall be hunted from river to river—from mountain to mountain—from valley to valley, until we are lost in the mazes of oblivion. But we are told that the office of governor is unimportant. This strikes me as a reason not to want it, rather than to dispute about it, on the part of those who hold it to be so insignificant. I do not agree with this assertion. The power of the governor is felt every where. He is in immediate relations with all the other departments of the government, and his political action may be likened to a drop of water falling upon a rock. It insensibly but surely leaves its traces. Let the naturalized citizen be satisfied with sharing with us all offices of profit and honor in the State, with this solitary exception. It is said to be unimportant, why not gratify us, then, with it. It is all that we ask—the sovereigns of the soil!

In speaking of native Americans, and in defending their rights and pretensions, let it not be understood that I favor the counsels of the political party known as Native Americans. I hold in perfect disgust the source from whence that party originated. I am anxious that my position on this question should not be confounded with any of their movements. Neither must it be understood that I am hostile to naturalized citizens. I am not so. I am not for restricting their rights, but in reference to this particular office, for the permanency of the institutions of my country, I really think the rule ought to be established, that none but a natural born citizen should be governor of Louisiana.

Whereupon the Convention adjourned.

Tuesday, February 18, 1845.

The Convention met pursuant to adjournment. The Rev. Mr. Twitchard opened the proceedings by prayer.

Mr. Taylor offered a resolution "that this Convention do now rescind one of the standing rules of the house, viz: That one which requires the Convention to meet at 10 o'clock." He (Mr. Taylor) thought that the rule was practically bad, although, no doubt, it was if acted up to on the part of the members, one of the best rules in the house. But theory and practice, we all know, are different things. The rule as it stands is of no benefit, but the very reverse; and as it has not been productive of any advantage, he desired to see it rescinded.

The President reminded the member that a standing rule of the house could not be set aside, unless the Convention agreed to dispense with the rules of the house, and consider his resolution. Mr. Taylor then moved that the rules of the house be temporarily suspended; which question being submitted to the Convention, was decided in the affirmative.

Mr. Sellers then offered a resolution, that those members who do not answer to their names when they are called at 10 o'clock, shall lose their per diem.

Mr. Taylor regrets much to differ with the gentleman from Carroll, but believing as he does, that the measure proposed by him, will not work well, and that the reasons which doubtless actuate him in suggesting this resolution are fallacious, he is bound to oppose it, and insist upon the revision of the rule. And why, sir? because there are a certain portion of the members, of which I humbly claim to be one, who are always at hand when the Convention is to meet as per adjournment; but there is another class, that have other business out of doors, that they will attend to, and do, before they come here, and will necessarily keep them away until 11 o'clock. Will those who desire to be punctual, come. What proportion do they bear to those who do not come? The answer is at hand. We never get a quorum until eleven o'clock; and the punctual man, who by the bye, may have as many other personal matters to attend to as those who are not punctual in their attendance, is made to lose one hour each day; while the man who is not punctual, keeps, by his absence, all our proceedings in waiting for him. He hopes and trusts, therefore, that the house, In order to place all upon an equal footing, will change the standing rule so that the hour of 11 o'clock may be named, and thereby enable the whole Convention to be present at that hour.

On motion of Mr. O'Bryan, leave of absence was granted to Mr. Scott of Madison, and on motion of Mr. Penn, Mr. Burton had also leave of absence granted, both for a few days only.

Mr. Labauve now called upon the President, to know whether leave of absence had been granted to him yesterday. The secretary replied, no: Mr. Labauve said, that being sick, and confined to his room, he had requested a friend, a member of this body, to ask such permission. The Convention promptly excused the gentleman, for his non-attendance on yesterday.

The Order of the Day was then taken up, and was the same as under discussion yesterday. A question was then raised, which was the subject before the Convention? The amendment offered by Mr. Beatty to strike out, or the proposition offered by Mr. Guion to lay Mr. Beatty's amendment indefinitely on the table.

Mr Marigny called upon the President to decide the matter.

The President replied that Mr. Guion's motion was clearly the one before the house.

Mr. Marigny then moved the previous question, which was, that the sense of the house should be taken on Mr. Beatty's resolution.

Mr. Guion could not but think, with all deferenee to the opinion of the member from New Orleans, that the motion made by him clearly had the preference, because a motion to lay on the table was, by the rules of the house, one of the motions that had precedence over any other subject presented to the consideration of the Convention, except a motion to adjourn. The President dicided that the motion made by Mr. Guion, was the first in order, and therefore the motion before the house.

The question was then put, and the yeas and nays being called for, resulted as follows, viz:

Messrs. Aubert, Benjamin, Bourg, Brumfield, Claiborne, Chinn, C. M. Conrad F. B. Conrad, Culbertson, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, B. Taylor, Wadsworth, Winchester and Winder—28 yeas.

Messrs. Beatty, Brazeale, Brent, Briant, Cade, Carriere, Cénas, Derbes, Downs, Dunn, Eustis, Garcia, Grymes, Humble, Hynson, Leonard, McCallop, McRea, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, W. B. Prescott, W. M. Prescott, Preston, Ratliff, Read, Roselius, W. B. Scott, Soulé, Splane, Stephens, M. Taylor, Trist, Voorhies, Waddill, Wederstrandt and Wikoff—40 nays; the motion to lay Mr. Beatty's resolution on the table was consequently lost.

Mr. Beatty then called up the motion which he had previously made to strike out, &c., but before any action was had on it, Mr. Chinn moved a call of the house, which resulted in shewing that there were 59 members present.

Mr. Wadsworth then moved, that in view of the great importance of the subject, and as it was no doubt the wish of the Convention generally that the vote on it should not be forced, in so thin a house, he desired to propose to them that the further consid-

eration should be postponed until 1 o'clock, at which time the Convention would doubtless be full. The proposition of Mr. Wadsworth was unanimously assented to, and the further consideration of the subject was postponed till 1 o'clock.

Mr. CHINN then moved that the Convention take up the apportionment bill, as reported by the special committee to whom that subject had been referred, and which was made the special order of the day, for yesterday, (Monday.)

Mr. CONRAD thought it would be better to take up the balance of the sections on the executive department, and get through that question at once. He felt sure that with a little energy and concert of action, much more work than has been done, might be done in this Convention.

Mr. SAUNDERS, the chairman of the committee to whom was referred the apportionment bill, said that he had made the said report, in his capacity of chairman; that he had done so with the hope and expectation that every man in the Convention might be heard on this interesting subject. He thinks it would be better to postpone the consideration of it for the present, and with a view to bring that about, he moved that the report be taken up and again laid on the table, subject to the call of the house, which motion was adopted.

Mr. CONRAD then moved that the Convention do proceed with the articles on the executive department, which motion also prevailed.

The section next in order was

SEC. 4. The governor shall enter on the discharge of his duties on the second Monday of January, in the year , and shall continue in office until the Monday next preceding the day that his successor shall have been declared duly elected, or until his successor shall have taken the oath or affirmation prescribed by this Constitution.

Mr. PEETS moved to strike out the word "second" and insert the word "fourth" preceeding the words "Monday of January," to which no objection being made, the motion prevailed.

Mr. MAYO moved to strike out the word "preceding" and insert the word "succeeding."

The secretary explained that it was a misprint, as the words in the original report made by the committee was "succeeding."

Mr. MAYO then moved to strike out the word "or" in the 6th line, and insert the word "and," which motion was adopted.

Mr. CHINN then moved to fill the blank in the 3d line with 1846, after the word "year," which was likewise adopted.

Mr. CONRAD thought there was still an ambiguity in the section, and moved to strike out the 4th, 5th and 6th lines.

Mr. BENJAMIN thought it should be made clear and explicit, leaving nothing to doubt; and he was of opinion that that might be accomplished by striking out the two last lines, and made a motion to that effect.

Mr. ROMAN agreed with Mr. Benjamin and seconded the motion.

Mr. DOWNS was opposed to striking out, because if we did, such an emergency might happen that we should have no governor at all.

Mr. BENJAMIN explained that such emergency was provided for in the next section.

Mr. CONRAD could not reconcile the clauses in the two sections, they seemed to him palpably at variance, and therefore should press his motion to strike out, which motion was put and lost.

Mr. CONRAD then moved to strike out all after the word "until," in the 4th line, down to the word "constitution," in the —— line, but afterwards withdrew his motion.

Mr. RATLIFF moved to reconsider the vote by which the blank was filled with 1846, because we were yet unable to say when this constitution on which we are engaged would be ratified by the people.

Mr. DOWNS agreed with Mr. Ratliff; he suggested that a blank had been left in some previous part of the constitution on which they had acted, to be filled up hereafter, and hoped the motion to reconsider would prevail, so as to fill up all the blank when we are near the close of our labors.

Mr. CONRAD concurred with Mr. Downs.

The question was then put on Mr. RATLIFF's motion, which was decided in the affirmative. He then moved to strike out 1846 and leave it blank for the present, which motion also prevailed.

Mr. KENNER moved to fill the blank with the "4th Monday in January, next succeeding his election," because it might so happen that a governor under the old constitu-

tion might be retained in office, (unless some time be specified,) and he would have the power of nominating all the officers under the new constitution. This he thought wrong.

Mr. Beatty, although he agreed with Mr. Kenner in his views as to appointments of officers, thought it could be better provided for hereafter, when we have made further progress.

Mr. Kenner withdrew his motion.

Mr. Conrad then moved to strike out the words "in the year," and insert the words "next succeeding his election," which motion prevailed.

Mr. Lewis then moved the adoption of the section as amended, which motion likewise prevailed, and the section as adopted read thus:

Sect. 4. The governor shall enter on the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and his successor shall have taken the oath or affirmation prescribed by this Constitution.

The next section was read.

Sect. 5. No member of Congress, nor officer of the general government, nor minister of the gospel, or of any religious society whatever, shall be eligible to the offices of governor or lieutenant governor.

Mr. Downs thought it would be better to strike out the word "eligible" and insert the word "hold."

Mr. Grymes does not take the same view of the matter as the gentleman from Ouachita. If any change should be made, in his opinion the phraseology should be made still stronger than it was. His feelings of propriety have frequently been shocked at witnessing the rapacity of men for office. Why, he himself has seen a judge descend from the supreme bench and electioneer for the office of senator to Congress, in the representative chamber itself. He himself was asked by that individual for his vote, and his reply was, "yes, I will vote for you if you will first resign the office you now hold, but not without." He does not think it right when any man is desirous of obtaining any office, that he should, at the same time while he is aspiring to another, be the holder of another office at the same moment. He thinks it a privilege which no man in a republican government ought to enjoy. He desires to see purity of purpose more rigidly adhered to than could be under such a system as we have had.

Mr. Marigny does not agree with Mr. Grymes in the opinions he has advanced. He thinks they are not tenable. He admits that a particular case might occur when a judge of the supreme court would take advantage of his influence, but still he is not of opinion that for any such isolated case as has been referred to, we should establish any rule, the effect of which would be a flagrant violation of others' rights. He thinks that the talents and character of a man should be passports to office, and he does not think it right if, for instance, the people, or a respectable portion of them, were to select as their choice, one of their district judges for their candidate for either governor, or lieutenant governor, to deprive them of that right. It would also be very hard to deprive that man of an office (because it might be necessary in a pecuniary point of view to him for the support of his family,) which he held, until it was ascertained that he had not been placed in a worse position by accepting, how he would be placed in by accepting any nomination however flattering it might be to his feelings as a man; why if such a man were to resign one office, and be defeated before the whole people for such an one as he aspired to, the consequences would probably be ruinous to the interests of his family. He thinks further, that the measure proposed is a restriction on the rights of the people and as such he is opposes to it.

Mr. Chinn would go farther than even Mr. Grymes, and he moved to amend the section so that after the words "General Government," the words "or of this State" should be inserted; and further he moved to strike out the word "eligible," and insert "elected."

Mr. Downs opposed the proposition of Mr. Chinn, because he regarded it as an unjust restriction. It was not his intention to prolong or bring about a debate on this subject when he proposed to change the word "eligible" to "hold." His intention was to provide for any such possibility as that a man could hold two offices at one time—but certainly not to take away the right of eligibility from any

man; for that right was to his mind as sacred as the right of suffrage itself. The more I reflect on it, (said Mr. Downs,) the more I become convinced that this question strikes at the face of the right of suffrage.

Why, sir, we are told that those who hold an office, no matter what, and no matter how capable or competent he may be, must resign before he can have any pretensions to any other place. Yes! every man of them. He (Mr. Downs) desires to argue on the principle advanced, as a general principle. He thinks it is unreasonable and unjust; for in that case, to hold any office under the general or state government, would be a disqualification: and he is opposed to restrictions on the rights of the people, unless called for by the sternest necessity. He thinks further that it is to the interest of, and moreover their duty, to get the services of the best and purest men that can be found for the office of governor, for they are called upon to exercise very responsible duties, even in the appointing power. Now, (said Mr. Downs,) if we carry out the doctrine of Mr. Grymes, without attempting in any way to dispute the facts advanced by him in proof of the unjust influence which was exercised by one certain individual in procuring the office of United States Senator, I contend that if we establish any rule, (if it be in any wise feasible to do so,) to guard against similar abuses of the popular will, the effect will be to stop the wheels of government. For his part, he was opposed to saying to any man, you cannot have any other office than the one you now hold, unless you first resign, (even before you put up any pretensions,) the one you now hold; according to such a doctrine, why no man could be a candidate for re-election who was at the time during which the canvass was going on serving the State to the best and utmost of his ability, in the senate or house of representatives at Washington.

The rule might apply, if Mr. Chinn's motion prevailed, even to the lawyers of the State, for their commissions make them officers of the State also; and then it might happen that he, (Mr. Grymes,) would be debarred from the privilege of becoming governor, certainly while holding the office he does, as a member of this convention, his name could not be used. Perhaps if the lawyers' influence could prevail, Mr. Grymes would stand the best chance of success, for in such a case, anxious to get him out of the way of themselves, the lesser lights, they might be willing, and doubtless would strain every nerve to get him elected. Well, even that power would operate against *his* election to that office, if persisted in.

For his, (Mr. Downs') part, he discards the idea put forth, even by implication, that office is created for the incumbent. He thinks it is created for the people, and the people alone. He feels that it is due to them to make their own free selection, and not in any manner restrict them in their choice. This is a new restriction, and as such he opposes it. It amounts to a multiplication of disabilities. Suppose one had such a case as this, how would it work?

A man who has been honored with numerous offices in the gift of the people, may be their representative in congress, or in the senate, at the moment when he is the choice of the people for the office of governor. This section would disqualify him entirely from accepting the nomination, unless he resigned his office, and were he to do that, other important interests of the people would be left unattended to, and perhaps totally neglected,

He is opposed to any measure which has the inevitable tendency which such a principle must have, to restrict not alone the rights of an individual, but also the rights of the people at large.

Mr. Grymes was surprised at the views taken by the gentleman from Ouachita on this question, for there cannot be any restriction where the party said to be restricted has an alternative. He does not conceive by the proposed measure either the rights of individuals or communities will be narrowed or restricted.

He, (Mr. Grymes,) wants the principle engrafted in our constitution, for nothing will tend so much to sap the foundation of our country's liberty, as the alarming increase of the trading politicians we are surrounded with, and beset by. He looks upon them as a species of cormorants—whose capacious maw is never filled—and whose machinations and manœuvrings are constantly undermining the social fabric, which the toil, labor and endurance of our ancestors has raised for us; and to his (Mr Gryme's) mind, the only way to prevent

their increase, is to destroy the power of that class of persons—to take away from them the ability to engage in the nefarious traffic. To bring about such a state of things, as will result in the people forcing a man into office, instead of his being able to force himself in, by acts of chicanery, trickery, bribery, or otherwise.

Is it not apparent to all that the intriguing politician and placeman is never satisfied? that he is always knocking at the portal of those in power? and that he aims incessantly in all the primary meetings of the party in power, to get the control of the public offices? When they get one, they are never satisfied until they monopolize the whole; for themselves, family or friends—then progressing from one to the other, in proportion to its lucrativeness, until they reach the ladder's topmost round. All the tumults and riots which we have at our elections, spring from the unholy and unhallowed means resorted to by aspiring politicians and office seekers, to stifle the popular will.

Mr. Grymes thinks it is the duty of this Convention so to make our organic laws, as will throw all possible obstacles in the way of such traders in politics—and thereby check the consequences which such a state of things as he has described as is the natural result of their present course.

Mr. Downs will no doubt tell you, sir, that the idea I now advance, is that the people are not competent to judge of the qualifications of their State officers; but if he does, Mr. Grymes will join issue with him, and tell him, that there are many things in theory, which are very pretty, which do not work well in practice. He would have all to feel as he does. He cares nothing for an office seeker, he dislikes the whole race of them. He wants the political power of the State preserved in the hands of the people, and not in the hands of a parcel of political wire workers. He (Mr. G.) wants to leave the people to judge and select for themselves. He knows that then they would give no preference to a man because he was in an office; and he further knows that they would not be likely to commit so gross an act, as that of political turpitude.

Mr. Conrad had intended to vote for the amendment of Mr. Downs, but from the remarks offered by Mr. Grymes, he is disposed to leave the section as it is. The substitute of his friend from Baton Rouge, goes further than he is willing to go. With Mr. Grymes, he thinks there is a peculiar impropriety in a judge soliciting another office, while he retains his seat upon the bench; at the same time Mr. Chinn's amendment prohibits every one who may hold an office of honor or profit in the State, from offering his name for the office of governor or lieutenant governor. He thinks there are many State officers why ought not to be disqualified, such for instance as tax collectors, notaries, comptrollers or even members of the legislature, from offering for such place. He thinks the provision made by the committee, inserting the words members of congress, a wise one; for he has seen too much log-rolling going on at Washington City. The demagogueism there is so great, that members of congress unfortunately use their official position more with a view to make themselves popular at home, looking evidently back to that home to be rewarded therefor, by some higher office in the State, than in attending to the real and substantial duties which the interests of his whole constituents demand at his hands. For these reasons, he agrees with the member from New Orleans, and will go as far any one, in promoting plain, practical men, and in sustaining their rights; but he does not agree with Mr. Chinn, for the reasons he has stated; therefore he moved to to lay his (Mr. C.'s) substitute on the table.

Mr. Preston thought, both with Mr. Conrad and Mr. Downs, that Mr. Chinn's substitute ought to be maintained. He has but very few remarks to offer on this question, and will not detain the Convention long. His first objection to it, is on the score of its restrictive property. He wanted as little restriction on the popular will as possible. A distinguished gentleman had observed here a few days since, that the business of this Convention was to impose restrictions upon the people, in the formation of a new constitution. He does not agree with that honorable gentleman. His views as to the calling of this Convention, are, that the old Constitution had in it too many restrictive qualities; and he (Mr. P.) is convinced that the object of the people in calling this Convention, was to ameliorate and take off the restrictive parts of the present constitution, and so to make our organic laws

that the whole people might have the fullest chance to express their will.

The committee of the legislative department has reported a section to this Convention which he opposed most strenuously, but to his (Mr. Preston's,) it was but a mole hill compared to a mountain, when compared to the principles sought to be forced upon the people under the section now before us. He regards this new proposal, which has been so suddenly sprung upon us, as one detrimental alike to pure as to equitable principle. It is clearly the spirit of the age to extend to the people the largest liberty consistent with public security, and he (Mr. Preston) challenges any gentleman on this floor, to point out one single State that has adopted in their constitution any clause, that one of her citizens who may hold a minor office, should be thereby debarred from the privilege of aspiring to a higher, even the highest office, while performing the duties of such minor office.

Experience has shown us very positively that the most practically experienced men to fill offices are those who have risen gradually from inferior offices to those of a higher grade. He regards all office as a school for a man to learn the art of government. Why, sir, if this section prevail, you will virtually say, that if the people should select a man for a high station on whom they had before conferred an inferior office, that your present restriction is intended to keep all such candidates out of the field. Is it right for you to do this? There are many men whom he (Mr. Preston) has known, who have risen from the force of hard and industrious labor, to be among the first men of our country. What was their object in devoting themselves to their laborious studies, even to midnight? yes! he has known many who had worked steadily by the midnight lamp, to acquire some science of government; others, other sciences, and are you, sir, going, as you surely will if this resolution pass, to say to those men, your labor is in vain; for if you succeed in getting a minor office in Louisiana, you can never expect to reach a higher one unless you first give up the small office you hold? The argument which is used amounts positively to that. Mr. Grymes says so distinctly and positively. But what do all men struggle and labor for, unless it be to raise their name for knowledge and character among their fellow men? to rise higher in the world? He (Mr. Preston) could have pointed out a more equitable mode of reaching this question, than some of the gentlemen have perhaps ever thought of. His idea would be, if you don't wish capable men to fill your offices, curtail the salaries, reduce them down so low that no one will think them worth their attention, and then you will remove the grand incentive so much dreaded by Mr. Grymes, of offices only being sought and chicancered for, for what they are worth. For his part, however, he must say, that he has never yet known a man who held an office to get rich from the emoluments of his office.

The hour of 1 o'clock having arrived, at which hour it was agreed to take up the discussion on the motion made by Mr. Beatty to strike out, &c., the President reminded Mr. Preston of it, and remarked that he could not proceed without the leave of the house. The Convention seemed unanimously to desire that Mr. Preston should proceed, but, he remarked, that as he was not well, and as this question had been suddenly broached to the house, he should prefer having some moments to reflect on all its important bearings before proceeding with his remarks; and therefore gave way to the regular business of the Convention.

The motion before the Convention was Mr. Beatty's, to strike out the word "native," &c. Before the vote was taken, several gentlemen desired to express the reasons which would govern them on the vote they were about to give.

Mr. Roman remarked that he was placed in a singular position in regard to this matter; while he was a member of the committee who made the report of which the section we are now about to act upon was one, he objected in committee to the insertion of the word "native," because he did not then think it was necessary; but subsequent events have shown him clearly that such a word is necessary in the section. What has been done since? why we have opened the door wider in our new constitution; we have established the principle of universal suffrage, and we have further agreed that a man receiving a plurality of votes, may become governor of Louisiana. For these reasons, and with the certainty that he felt that it was absolutely necessary to take some measures to prevent the great

frauds which had been recently perpetrated, he thought now that the insertion of the word "native," was a wise provision in the section, and therefore he should vote against striking out.

Mr. VOORHIES is of opinion that we have the power to retain the word "native" —but he thinks it is inexpedient and uncalled for. Therefore he shall vote to strike it out.

Mr. CULBERTSON, desired in a few words to give his reasons for the vote he should give on this question. He has been anxiously and attentively listening to the arguments of the able gentlemen who have addressed this Convention on this interesting subject. The result of his reflections is this—that we have more to fear from the northern abolitionists than we had from our own naturalized citizens. If the Convention would entertain such a proposition as he was about to send to the secretary's desk to be read, he would endeavor to sustain it by reason and by argument. If they would not, he should vote to strike out, but offered it as an amendment. The amendment offered, was in these words: "That no person shall be eligible to the office of governor of the State of Louisiana, unless he be a native born citizen of Louisiana, or has acquired a residence in the State as a citizen of the United States, before this constitution goes into effect."

This amendment of Mr. Culbertson was then put and lost.

Mr. CONRAD then rose, and said that as it had become fashionable for the delegates of this Convention to assign their reasons for the different votes they gave on this floor, he was fearful his constituents might not think him a fashionable man. And in imitating the example of the distinguished gentlemen who have preceded him, he feels himself called upon to give two reasons for his vote on this question. The 1st is, that the Convention has the power to insert the word "native," under the constitution of the United States. And 2d, that in our situation it is expedient to do so.

Mr. GARCIA then rose for the purpose of expressing his views on the vote he was about to give. He regarded the insertion of the word "native" unnecessary, for three reasons. 1st, because it was unjust. 2d, because it was unnecessary. 3d because, he believed we had not the power to do it, under the constitution of the United States.

The question was then put on striking out, on motion of Mr. DOWNS, the word "native" first, and resulted as follows:

Messrs. Beatty, Brazeale, Brent, Briant, Cade, Cenas, Culbertson, Carriere, Derbes, Downs, Dunn, Eustis, Garcia, Humble, Hynson, Labauve, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, W. B. Prescott, W. M. Prescott, Preston, Ratliff, Read, Roselius, W. B. Scott, Soulé, Splane, Stephens, M. Taylor, Trist, Voorhies, Waddill, Wederstrandt and Wikoff—41 yeas; and

Messrs. Aubert, Benjamin, Bourg, Brumfield, Chinn, Claiborne, C. M. Conrad, F. B. Conrad, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, R. Taylor, Wadsworth, Winchester and Winder—27 nays.

So the word "native" was stricken out from the section.

Mr. DUNN then proposed to substitute for the balance of the section, the words, "No one shall be eligible either to the office of governor or lieutenant governor, unless he shall have attained the age of 35 years, and has been a citizen of the United States for the period of sixteen years, and has been a resident citizen of Louisiana ten years preceding his election."

Mr. BEATTY moved as an amendment to the motion, to strike out all the words beginning at the 6th line, with the word "nor," to the word "and," inclusive in the line.

Mr. BRENT offered a substitute for the amendment to the amendment; it was in these words: "No person shall be eligible to the office of governor or lieutenant governor, who is not a qualified elector of this State."

Mr. PRESTON suggested that the substitute had better be put in an affirmative form so as to make it read, "Every qualified elector shall be eligible to the office of governor or lieutenant governor."

Mr. DUNN thought that justice had not been done him in this matter, and rose to a point of order. He insisted that the substitute for the latter clause in the section under debate offered by him, was certainly the first in order.

Mr. Beatty is also of opinion that either Mr. Dunn's proposition or his own must be in order.

Mr. Labauve, temporarily in the chair, decided that Mr. Dunn's motion was not the first in order, but gave the preference to the substitute of Mr. Brent, as amended by Mr. Preston.

Mr. Dunn then appealed from the decision of the chair.

Mr. Claiborne thinks that we are going wrong. The usual mode of proceeding is to take up section by section, or clause by clause.

Mr. Grymes called Mr. Claiborne to order. He said that when any motion was made on a point of order, it was not debateable.

The question was then taken—shall the decision of the chair be sustained? which was decided in the negative; 38 to 27.

Mr. Beatty then moved to strike out the property qualification in the section before the house, which was decided as follows:

Messrs. Beatty, Bourg, Brazeale, Briant, Cade, Carriere, Cenas, Downs, Dunn, Garrett, Humble, Hynson, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge. Sellers, Soulé, Splane, Stephens, Taylor, Trist, Voorhies, Waddill, Wederstrandt, Wikoff, and Winder; 38 yeas; and

Messrs. Aubert, Benjamin, Brumfield, Briant, Chinn, Claiborne, F. B. Conrad, C. M. Conrad, Cublertson, Derbes, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Saunders, Taylor, and Winchester voted in the negative; 28 nays; so the motion to strike out prevailed.

Mr. Winder then offered to amend the section, by striking out all after the words "35 years," and inserting as a substitute, "and been a citizen of this State 15 years."

Mr. Brent then moved to strike out the words '35 years,' and insert '21 years.'

Mr. Conrad would also like to see the words "and a citizen of the United States," inserted in the section before us, after the words "a citizen of this State."

Mr. Taylor is of opinion that these words are not necessary, as no individual could be a citizen of Louisiana, unless he were a citizen of the United States, and the amendment offered by Mr. Winder specifies that he shall have been five years a citizen of Louisiana.

Mr. Conrad had in his mind when he made the proposal, the fact that in several other States, among them the State of Illinois, there was no requirement for an elector to be a citizen of the United States, nor was it required as a pro-requisite in any of the officers of the State. This, he thought ought to be remedied by us, and as he was not aware that there was any direct provision for it as yet in our constitution, he thought it proper to press his amendment.

Mr. Winder then consented to adopt the amendment offered by Mr. Conrad.

Mr. Dunn thought the question might be divided.

Mr. Read offered a substitute for the whole matter under debate, which was to strike out all that part of the clause beginning at the words "35 years," and to insert "who shall not be 21 years of age, and two years a citizen of the United States, and of this State, next preceding his election."

Mr. Dunn moved to lay the substitute indefinitely on the table.

Mr. Downs would second that motion. Although he is in favor of all necessary reform, he thinks the motion made by Mr. Read is going too far, and for that reason he opposed it.

The question was then taken, the yeas and nays being called for, and resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cade, Carriere, Cénas, Chinn, Claiborne, C. M. Conrad, F. B. Conrad, Culbertson, Derbes, Downs, Dunn, Garcia, Garrett, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Leonard, Lewis, Marigny, Mayo, Mazureau, Peets, Penn, W. B. Prescott, W. M. Prescott, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wikoff, Winchester and Winder—52 yeas; and

Messrs. Brazeale, Brent, Humble, McCallop, O'Bryan, Porter, Preston, Read, W. B. Scott, Waddill and Wederstrandt—12 nays.

So the substitute was laid on the table indefinitely.

Mr. Brent then moved a division of the question, so that the question might be taken on striking out ten years, first.

The question was then put, and decided by yeas any nays, as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Brazeale, Brent, Briant, Brumfield, Carriere, Cénas, Chinn, Conrad of New Orleans, Conrad of Jefferson, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, O'Bryan, Peets, Penn, Preston, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Splane, Taylor of Assumption, Taylor of St. Landry, Waddill, Wikoff, Winchester and Winder—40 yeas; and

Messrs. Cade, Claiborne, Derbes, Downs, Dunn, Garrett, Humble, Hynson, Leonard, McCallop, McRae, Marigny, Mayo, Porter, Prescott of Avoyelles, Prescott of St. Landry, W. B. Scott, Sellers, Soulé, Stephens, Trist, Voorhies and Wederstrandt— 24 nays.

The words "ten years" were therefore stricken out.

Mr. O'Bryan wanted the blank filled with five years, but on being told his motion was out of order, he said he desired to reconsider his vote, and moved a reconsideration of the vote.

Mr. Taylor called Mr. O'Bryan to order, and

The President decided that the motion of Mr. O'Bryan was out of order, and that Mr. Winder's amendment came up next in order.

Mr. Downs thinks when a section has been divided, that the clauses become seperate questions, and the sense of the House may be taken on them as such, seperately. He then read the 101st rule from Jefferson's manual in support of his views of the matter, which fully sustained the position he had taken.

Mr. Conrad does not see that the rule heretofore adopted by the President of the Convention conflicts with the Manual; but

The President, from the authority advanced by Mr. Downs, saw clearly that his previous impression had been erroneous, and he was now convinced that any question may be amended when it is divided.

When that decision was made,

Mr. King moved to fill the blank with twenty-one years.

Mr. Preston hoped that the amendment would not prevail. The old constitution only requires a residence of six years—that had surely worked well enough. It is true for his part, that if two men of equal natural capacity were to be candidates, the one old, the other young, that he should and would always give the preference to the old man. But, sir, the old constitution has answered in this particular as well as could be desired. Why then change it? Why restrict the people from choosing whom they see fit? For his part, he said, he should always prefer the gray headed man, (perhaps from a natural sympathy on that account,) to the young man, even in time of war, even although we might have in that young candidate another Bonaparte, who astonished the world at the age of twenty-five.

The question before the Convention is, are we to restrain the people from choosing whom they please? Can any good come of it? Experience has shown that there is no necessity for increasing the term of residence from that established in 1812. His (Mr. P's) desire is to maintain an established principle, unless it can be shown to be injurious to the interests of the people, and that naturally leads him to ask the question, who is the government? The servants of the electors. Who the electors? Surely their masters.

He does not, therefore, wish to see the people prevented by any such restrictions from choosing whom they please. In private transactions we have the right of choosing agents under twenty-one years of age, and he is clearly of opinion that we should not distort the old constitution on the subject now under discussion. The resident population will always have the control of that matter, and it is not at all likely that a new comer or a youth will be selected to fill the post of governor.

He hopes the motion to fill the blank with twenty-one years will not prevail, but, that the term chosen will bethat in the constitution of 1812; 6 years.

Mr. Benjamin then moved to adjourn till 11 o'clock to-morrow, which motion prevailed.

Wednesday, February 19, 1845.

The Convention met pursuant to adjournment; and at the request of the Pres-

ident, the Hon. Mr. Stevens officiated as chaplain.

ORDER OF THE DAY.

The Convention resumed the consideration of the last clause of section 3d of the report of the majority of the committee on the executive department, which is as follows:

"No person shall be eligible to the office of governor who shall not have attained the age of thirty-five years, and have been ten years next preceding his election a resident within the State."

Mr. King withdrew the amendment offered by him yesterday to this section.

Mr. O'Bryan moved to fill the blank in the clause by five years. The question was taken on the previous motion of Mr. Winder to fill the blank with fifteen years, and the yeas and nays were called for.

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cenas, F. B. Conrad, Culbertson, Derbes, Garcia, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, W. B. Prescott, Prudhomme, Pugh, Roman, Saunders, Taylor, Wadsworth, Wikoff, Winchester, and Winder—29 ayes; and

Messrs. Brent, Cade, Carriere, Claiborne, Downs, Dunn, Humble, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, W. M. Prescott, Preston, Read, W. B. Scott, Sellers, Splane, Stephens, M. Taylor, Trist, Voorhies, Waddill, and Wederstrandt—27 nays.

Mr. Winder then moved to add to the requisition, "a citizen of the United States, and of the State;" and called for the yeas and nays on that motion: and the result was as follows:

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cade, Cenas, Claiborne, Chinn, F. B. Conrad, Culbertson, Derbes, Dunn, Guion, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, W. B. Prescott, Prudhomme, Pugh, Roman, Saunders, M. Taylor, R. Taylor, Voorhies, Wadsworth, Wikoff, Winchester, and Winder—35 yeas; and

Messrs. Brent, Carriere, Downs, Garcia, Humble, Leonard, McCallop McRae, Marigny, Mayo, O'Bryan, Peets, Porter, W. M. Prescott, Preston, Read, W. B. Scott, Sellers, Splane, Stephens, Trist, Waddill, and Wederstrandt—23 nays.

Mr. Lewis therefore moved to add after the word "citizen," the words "free white male," which amendment was sustained without a division.

Mr. Dunn moved that the section offered by him yesterday, be adopted as a substitute for the foregoing section as amended.

Mr. Wadsworth moved to lay Mr. Dunn's motion on the table, which prevailed—yeas 31, nays 28.

Mr. Mayo then proposed a substitute to the following effect: "that no one should be eligible to the office of governer who was not a free white male citizen of the United States, who hath not attained the age of thirty years, and hath been a resident within the State ten years next preceding his election."

Mr. Benjamin objected to this section being taken under consideration. It was not in order, it being a renewal in effect of the proposition that had been rejected.

Mr. Kenner called for the previous question, which was ordered—yeas 28, nays 30.

The question then recurred on the adoption of the section—yeas 33, nays 25.

Mr. Mayo then gave notice that he would move for a reconsideration of the vote on Tuesday next.

The Convention then took up the following section:

Sec. 5. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor, or lieutenant governor.

Together with the substitute offered for the same by Mr. Chinn.

Mr. Preston said he felt called upon to raise his voice against the substitute offered by the delegate from West Baton Rouge. Experience has demonstrated that this exclusion is entirely unnecessary. No State in the Union has as yet found such a principle proper or expedient, and why adopt it here? It would seem from the arguments of those who sustain this principle, that the mere investure of a public office should operate as an exclusion to all other public offices. And yet what other means have the people of judging of the capacities, the zeal, the virtue of a citizen, unless it be by the services that he may render them in the various stations of public life? I con-

tend that the gradations of public employments are a school, and that a man who has passed through that school, necessarily offers to the people greater facilities of judging of his fitness and of his qualifications; and that so far from its being considered a matter of exclusion because he holds one office, it should be a recommendation to another, provided he has shown himself competent to the first. The people will see what are actually his merits; they will see him pass through a severe ordeal, and if he is capable, they will raise him to the highest offices. It is a mistake to suppose that the people do not possess discernment. That they cannot judge of the qualifications of a candidate when they have the opportunities of examining into his pretensions. They will not take an incompetent man, if they can get a competent one to represent them, or administer their government, and if a man of ordinary understanding, by some accident gets into a subordinate station, he is seldom if ever preferred by them to a higher or more responsible one. When his incompetency is once discovered, his political aspirations may be considered as at an end.

The extent to which a similar article in the old constitution was interpreted went, that they should not be competent to hold one office when elected to another, but it was never understood that they should not hold one office and be a candidate for another. What detriment has resulted from the common practice throughout the State, which has been sanctioned by usage? No injury has been the result; then wherefore establish this exclusion? Does the confidence reposed in a citizen which induces his fellow citizens to send him to the house of representatives of the United States, or to the senate of the United States, disqualify him from the office of governor, or any other station? Or that confidence—that knowledge of his peculiar fitness which has elevated him to a station on the bench, disqualify him for being governor of the State, or a member of congress? I am of a contrary opinion. I think that the public are gainers by the experience of these officers, and that this experience is acquired by being indiscriminately employed in the various branches of the public service. We have very important interests at Washington to represent, and I may say there is not a State in the Union so deeply interested in the legislation of that body as Louisiana. The city of New Orleans has vast commercial relations; she is the great city of the west and south west, and is directly involved in all the treaties made with foreign nations, and in the peculiar foreign policy of the government. It is of the very highest importance that the State should send capable and efficient representatives to congress. These representatives meet with the most distinguished men from the other States of the Union—with governors, judges, and senators, that have been delegated, like themselves, to congress. They compare notes, they glean information of the particular local position of every individual State, of its advancement, of its progress; how its peculiar system of polity works, and yet with all this general information you place a bar upon them in the constitution, and assume that they shall not be eligible to the office of governor. I can see no good reason for this. They have escaped from the turmoils of petty local excitements and local politics; they have their minds enlarged by legislating for the general interests of the whole country, and yet, if their fellow citizens choose to elevate them to the post of governor, they are denied that right by an arbitrary edict in your constitution. They are told they cannot do it, and to be a member of congress is to be excluded from all political preferment in the State. This is certainly an unjust exclusion—an exclusion repugnant to every principle of expediency or of good policy, and I feel certain that the gentleman who offers it would have so considered it when he was himself a member of congress.

No one is less disposed to believe than I, that military talents are the only talents for the office of chief magistrate. But I cannot perceive why a citizen of the State in the military service of the United States, should be excluded from holding civil offices in this State. I contend that it appertains alone to the people to determine whether any particular individual suits them for a particular office, and to deny to them the rights of free and unrestricted choice, is to impose odious restraints upon them, and to make invidious exclusions affecting particular persons. No principle is more thoroughly democratic, than rotation in office, and how is that principle to be carried out,

if a man is to be retained as a fixture in one office, that is, if he does his duty he may expect to be retained, but as long as he is retained he must not aspire to any other office. As a general rule, it may be assured, that a man who fills one office well is capable of filling another well, and it is not an unsafe principle to act upon. Frequent elections, frequent recurrence to original principles, are the safeguards of republican governments. Why distrust the people; the people are far more competent than we are to judge who is best qualified to serve them. Let us not restrict their choice. Let us leave them unrestrained, to select where they please, and when they please, to carry on their government.

Suppose the people of Louisiana were disposed to elevate to the chief magistracy of the State some citizen who had rendered them essential service, in a military station, under the federal government—a citizen who had averted some eminent danger, would you deny to them the privilege of doing so? They would feel a lasting sorrow at not having the opportunity of testifying their gratitude, and in the disposition of their honors, to reward him adequately accordingly to his deserts. What I object to is, that this rule debars the people of their undoubted privileges of selecting when they will. It disfranchises a large number of worthy citizens, and as I can see for no earthly reason. Why should you pronounce the attorney or the district attorney of the United States, incapable of aspiring to any office in the State unless he returns first to the walks of private life? I agree with the democratic principle of rotation in office, but I understand it to mean not that a man should necessarily be expelled from office with no other motive than to give place to another. I do not understand that principle thus. I understand it that the people should have frequent opportunities of making changes, if they choose. I understand it as facilitating the means of holding their agents to a strict and immediate responsibiltiy.

One argument that has been assumed by the advocates of the proposition of the gentleman from West Baton Rouge (Mr. Chinn) is, that the judicial ermine ought to be kept pure and unsullied; that judges will descend from the purity and dignity of their stations, and become candidates for office, if this provision be not adopted; and that the consequences will be deleterious in the extreme, both as regards the standing of the judge and the proper discharge of his duties. I think there is no weight in the argument. If a judge be too pure and unsullied to aspire to any station, he is too pure for this world, and ought to be translated to another. But a more serious objection is urged. It is said that he will electioneer—that he will meddle in elections. What is meant by electioneering, for there are different meanings attached to that word? Is it pretended that because a man, yielding to the solicitations of his fellow citizens, consents to become a candidate for a particular ststion, and deems it to be his duty to express freely his opinions and sentiments in a public manner—to converse with his fellow citizens—that there is any thing wrong in that? And in a large district if it be not convenient to meet them all in one place, he meets them at several—is there any thing in that objectionable? Any thing improper in its being done by a judge or other functionary, more than any other man? Is there any violation of principle? I can see none. None, if the chief justice of the supreme court were to address his fellow citizens at different points of the State, and in a calm and dignified manner enunciate the principles that would govern him, were the partialities of some of his fellow citizens that had nominated him for the office of governor, confirmed by the general choice of all the people. I cannot perceive how this could result in the pollution of our elections! It is true that things do occasionally occur at our elections, that are disgusting. But these are the abuses of a popular system of government. They do not, however, outweigh the manifold benefits and blessings of that system—one advantage of which, is the very facility afforded to the people of scrutinizing the pretensions of those that would serve them; of examining into their qualifications. It is intelligence speaking to intelligence. It puts the candidate to the ordeal of public opinion—he is scanned with scrutinizing eyes—to make use of a common expression, the people have the opportunity of twigging him, to see of what stuff he is made. Where is the harm in this? If this is what is considered electioneering, I can see no harm in it. But if by electioneering he meant the

abuses the excrescences, the aberrations from correct principles, I admit these are lamentable, still they are no argument against the general principle. When men of high intelligence become candidates for office, they instruct and enlighten the people of the State. They instruct those of less experience as to the capabilities of the State; the true course of State policy. Nothing is calculated more to enlighten the electors. They hear aspiring men discuss grave and important topics of public concernment, and are always ready and anxious to be present at these debates. When important political questions are pending, how often have we seen the public meetings thronged, and the anxious crowd remaining until 11 o'clock at night to hear the words of experience of some old, grave man, who has been called upon to shed the light of his intelligence upon those questions. The people are ever ready to glean all the information they can, in order to act understandingly. The consequence of discussion is that the people obtain information, and the humblest citizen who retires to his simple cottage, carries with him and treasures up some of the important facts that may have been elicited in that discussion. It is this interchange of thought and facility of hearing every public question discussed, that disseminated so much general information among the people, and gives them a decided advantage over the people of other countries. What makes the servility of the Russian serf; the fanaticism of the Spanish peasantry? It is the distance at which they are kept from the power that governs them. They are not instructed by their public men, nor enlightened as to measures of public policy. They are not the sources of honors and rewards, as the people of this happy country. No public man feels himself here too proud or too pure to address his fellow citizens, and suggest to them his views. The result is, that the good of the country is promoted.

I will repeat again, that the people are capable and have the virtue to select their public servants for themselves, without any restraint or restriction, and the strongest proof of that intelligence and virtue is, that a viscious man always appeals to virtue and to the rectitude of his purposes. This observation holds good throughout the length and breadth of the land, and shows the regard which is felt for virtue and intelligence among the masses. I care not where a candidate may address the people, be it in the midst of a tavern, where a mob may be collected together, this appeal is invariably heard, which shows that he well understands that that is the chord he must touch, if he expects success. This proves that although there are excesses, there is no lack of virtue or intelligence in the people themselves. An ignorant man who aspires to serve the people, is invariably destined, if the masses only have the opportunity, to have the shallowness of his capacities detected. The humblest among them will say, "well, that man has no more sense than I; how can he pretend to such an office?" The people pride themselves upon the talents of their public officers. They have great virtue. I speak generally. Out of twenty indiscriminately taken, the twentieth may be a base man; but he is the exception.

There is no disgrace, to my humble conception, to the ermine of judicial dignity, in a judge addressing the people, when the partialities of his fellow citizens induce him to become a candidate for any public station. He may address them by public speech or in writing. The principle of our government is, that every man should have the freedom of speech, and be eligible to serve his country, whether he be a private citizen or the incumbent of any particular office. This glorious privilege cannot appropriately be infringed in any instance, and the judge of the supreme court who may be induced to become a candidate, is just as much exposed to be conned and to be scrutinized as any other citizen that may offer.

I have no opinion in that policy that would house a man up, and claims for him merits that the world have never been able to discover. Talents he may have, but if they are not exerted, of what use are they? If, like the unfaithful steward in holy writ, he hide away that which is given him to be increased and to be multiplied, of what use is the gift?

I come now to speak of that clause in the section, which excludes ministers of the gospel. I shall say but little upon that point, as I have understood that it is the intention of the delegate from Opelousas, (Mr. Lewis) when the subject properly

comes up in another and more appropriate portion of the constitution, to express his views upon it; and I feel he is more competent to the task than I am. But, as I vote against this principle in its partial application here, I will state briefly my reasons for doing so. I consider that the objections that may originally have existed, and which may have justified that exclusion, have had no practical effect for the last fifty years. I consider that it is contrary to principle. That it is an absurd restriction. The people are, I repeat, competent to vote for whom they please, and every voter should be eligible for every civil station—be he ecclesiastical or layman. A minister of the church is allowed to vote, and yet he is debarred the privilege of being voted for. If there be really danger to the community by investing him with the ordinary rights of citizenship, say so at once and deprive him of all those rights. The civilized christian world have set apart one day in the seven, as a day of repose—the sabbath---when the business of religion is to be exclusively pursued. I belong to no particular sect of religion; yet I think the setting apart of a particular day an appropriate moral institution; and I can see nothing in the functions of a minister of the gospel,---inculcating the holy precepts of religion, that should debar his congregation---his friends and neighbors of electing him to any station, or he from accepting it. There is nothing in these functions to make him a bad or dangerous man; on the contrary, there is the very reverse; and at any rate, the people may well be trusted with the faculty of exercising a sound discretion on the premises. Why under heaven should there be such an exclusion? In the superanuated constitution, as some reason had to be given---some pretext, it was said in the preamble, because ministers were dedicated to God, and to the care of souls. If that was the only reason, it was a most insufficient one. Every body believes in God. I am persuaded there is not an atheist at least in the world! What is there in the inculcation of religious doctrines to debar a man from secular pursuits? Away then with all such distinctions---distinctions without any necessity. It may once have been found necessary to establish this exclusion through fear of a connection between church and state. But the necessity no longer has an existence. We are not surely going back to the age of superstition and of despotism. Let us make a practical constitution; a constitution of equal rights and equal privileges; not a constitution of exclusions. Let us not permit the spirit of jealousy---nor feel envious that others may get higher than ourselves---being convinced that if we individually can be losers, the public are the gainers. In this way we shall raise the character of the State to the highest pinnacle, and make her great and respectable among her confederated States.

Mr. Lewis said, he rose not for the purpose of discussing the question involved, but rather to make the motion to lay the proposition now before the house, indefinately on the table. The subject would come up more appropriately when the section on the general provisions prescribing that no one should hold two offices at the same time, would be reached. The whole subject was embraced in that section. He thought it useless and worse than useless to sprinkle the constitution over with exceptions; when in one general rule well discussed and well conceived, the whole matter could be settled. He had been called a restrictionist. If by that was meant that he was in favor of restraining the will of majorities within a circumscribed limit, and protecting the rights of minorities, then he was a restrictionist. But, restrictionist as he might be, he was not disposed to place the bar of proscription upon any class of citizens, and to disfranchise them on account of their particular occupation. He could see no jusst caue for proscribing ministers from holding civil employments, and for conceding that their sacred calling disqualified them. He would move to lay the section on the table, and when the subject came up in its appropriate place, he would then take the liberty of suggesting his views to the Convention.

Mr. Dunn said, he had not the pleasure of hearing the arguments which had been urged by different members on this question, but he would take this occasion to express his views. He hoped the house would deliberate well before they rejected the proposition of the honorable gentleman from West Baton Rouge (Mr. Chinn.) It was one in which the public interest was deeply concerned; he would not dwell on

the subject, but would call the serious attention of the Convention to the propriety of a judge being eligible to the office of governor, or any other political office, whilst exercising the functions of judge, and vice versa, any political officer being eligible to the office of judge. He would remark that his opinions were not formed from observation; for he had had the pleasure of practising law before judges who were above suspicion; judges in whom the public repose entire confidence, but he was satisfied the substitute offered by the gentleman from Baton Rouge was right in principle, and that public interest and public feeling demanded its adoption. The judiciary has been wisely considered by all statesmen, as the delicate part of government; distrust in the rectitude or ability of a judge, is the most fatal feeling that can pervade a community. The legislative and executive departments of government may be distrusted, and still the people may do very well; but the moment confidence in the judiciary is lost, the feelings of the social compact are poisoned at the fountain head. Sir, the judge should be independent of every influence that possibly could operate upon him. Yes, independent of his own ambition; and there cannot be too many guards and checks thrown around him, confining him to the important and delicate business, belonging to his office. What is the business of a judge? It is to administer "equal and exact justice." To dispense to every man his just due. This, considering the infirmaties of human nature, is a most difficult duty to perform; and is worthy the reflection of this Convention, whether it is likely to be correctly performed by politicians; for it is not only necessary that it be performed, but it should be done in such a manner as to inspire public confidence. Sir, it is not sufficient for a judge to decide right, but he should do so under such circumstances, as to show that he has done it; his learning, his talents, and patience, should all be put in requisition, to decide according to law and justice, and then to conciliate the public by proving that he has succeeded. If he indulges in political aspirations, is he likely to do so? Should not a judge devote himself entirely to the duties of his office? And is it not due to him, that he be placed in a situation above the reach of the suspicious---the invidious, or the malicious? It is for the Convention to determine how he would likely be esteemed as a judge, who canvasses for political preferment as a partizan, in times of high excitement like the present; and what would be the situation of the judge after the canvass, and after defeat; fancy him, Mr. President, returning to the bench after a warm contest, with all the feelings of a slandered and persecuted man. Sir, could you expect him to perform his duties with that dignity, that candor, that impartiality, and that equinimity, which are necessary to the advancement of his own honor, and his country's welfare? he would be superhuman if he did; and it is for this house to determine whether it is consistent with human nature for a judge under such circumstances, not to smart under the infliction of fancied or real wrongs. May he not be tempted to remember the services of his friends? and may he not be prejudiced in his judgments by the discovered hatred of his opponents? and if not---then sir, may he not be suspected? There are men adroit in management, and there is danger they might bring the power of their official stations to bear upon their elections.

It is expected that this Convention will direct that the judge shall hold his office for a term of years, and it is fair to presume the incumbent will continue to discharge his duties until his time expires. But if public interest or party feeling require him to become a candidate for political honors, then it should not be considered unjust or unwise to require him to resign, especially when we recognize the doctrine of rotation in office. We should look at this subject with an eye single to the great interest of the people, and not the advancement of friends, or partizans. The old rule of climbing, by holding on to the round of the ladder until a further step is successfully taken, should be abrogated; it is wrong in theory, and in practice gives one party the advantage---patronage of office, an influence likely to be abused.

Mr. President: not only this Convention, but the whole people would prefer that the best, wisest, and greatest man in the State should forever forego the privilege of being the highest and most honorable officer, rather than injustice should be done by a candidate judge to the humblest and most

insignificant person in the community; yes, rather than the public should even suspect that injustice has been done. The people have but one feeling on this subject, and that is, the judge should punish the guilty, and protect the innocent. Sir we can but agree that the sacred ermine, should not be soiled for a single moment, nor should even a passing cloud darken the oracle of law and justice, but it should be known, and felt by every one, that the court is a refuge for the oppressed, an assylum for the widow and orphan, and a hiding place for the wronged and helpless.

In reference to the ineligibility of priests and ministers of the gospel, Mr. Dunn said, he felt himself called upon to defend the clergy, avowed himself their friend, and a friend to the church. He believed the clergy generally would concur with him, because he believed they would say their business was with men's souls—their profession was a high and exalted one, elevated far above party strife, and the petty things that belong to earth. It would be degrading them to suppose they had political aspirations, and gentlemen on this floor admit it; but object to the restriction. Sir, (said Mr. Dunn) it is not to underrate them, that the restriction is asked, it is not to prevent them from exercising any privilege which they consider within the sphere of their profession—no, sir, it is to protect the purity of the church, and maintain the dignity and consequence of the clergy; and at the same time to guard the institutions of man against all dangers, all undue and fanatical influences, that hypocrites may impose. For, Mr. President, there are hypocrites—men who pretend to be christians, when in reality they have only the external appearance, the sacred cloak is thrown over them to hide their depravity; "wolves in sheep's clothing." Such men, whose only study is deceit, and only aim, self promotion, would degrade the christian and disgrace the church to accomplish their object. It is to restrain such men that this restriction is required; to secure the pulpit from such profanity and desecration. The church should be shielded against the odium that a demagogue preacher might cast upon it. He concluded by saying that some of his best friends were clergymen, and he had no doubt he was truly representing their views and feelings.

Mr. Conrad of Orleans, participated in opinion with the delegate from Feliciana, (Mr. Dunn,) as to the propriety of excluding ministers of the gospel from holding civil employments. He did not think with the delegate from Opelousas, (Mr. Lewis,) that the section alluded to in the general provisions, embraced the subject as fully and as definitely as the section now before the house; and was therefore opposed to the motion to lay upon the table. With reference to the provision excluding members of congress from being candidates for other offices in the gift of the people, he was opposed to that provision. He thought, however, in reference to judges, it was necessary. They ought not to be involved in the party politics and excitements of the day, and if they were to be candidates while holding on to their judicial appointment, it would expose them at any rate to suspicion; and even that ought to be avoided. He did not concur in the singular remark of the delegate from Jefferson, (Mr. Preston,) that judges who did not intermeddle in politics, and descend into the arena of party contests as candidates for office, were too pure for this world and ought to be transposed to another. The delegate, too, from Jefferson, (Mr. Preston,) has opposed the exclusion of ministers of the gospel. That delegate has on some occasions eulogized the old constitution. Does he forget that this very provision is in the old constitution? and I think the experience of thirty-two years has fully confirmed its wisdom. The delegate from Jefferson, it seems, only means to eulogise that particular portion that suits him, notwithstanding his professed reverence for the whole instrument.

The most cogent reasons exist for excluding teachers of religion from eligibility to offices, and for excluding them from entering the arena of politics. Their mission is to assuage the violence of party politics, not to increase it by being themselves candidates for public offices. In the language of the old constitution, which appears to be distasteful to the member from Jefferson, because they are antiquated, it is well laid down that they are dedicated to the service of God and the cause of souls. That is their appropriate sphere of action. There is besides great danger in opening to them the road to civil preferment. From the line of their duties they have every opportunity

of acquiring a great control over society, and there is too much reason to fear they would abuse that influence if they were exposed to the temptations of worldly ambition.

Mr. Lewis said it was not his design to discuss this subject at the present time, for the reasons he had before alleged. He conceived it, however, necessary to make one or two remarks. The usual phillipic had been pronounced, admonishing us of the danger of placing ministers and teachers of religion on the same footing as the balance of their fellow citizens. It seemed to him that if this apprehension have any serious ground, the remedy should extend to disqualification, not simply from holding office, but from the right of suffrage.

I would be the last one, said Mr. Lewis, to withdraw a minister from the sacred desk, and vote for him to fill a political office. But I think we have no right to disfranchise him. We have no more right to say that he shall not be eligible to office, than we have to say that a lawyer or a butcher shall not be eligible. Such exceptions and exclusions are a blot upon our constitution. They are scars upon it. The particular pursuits of a man are no good cause of exclusion, notwithstanding the eloquence of the gentleman ; and they are paying a poor compliment to human nature, when they pretend that the very calling which would tend to elevate a man to the purest standard of morality, would make him incompetent in political matters. The history of the exclusion in the old constitution is well known. It is not worth while to slur the motive over. It arose from an apprehension that the Catholic religion, which was then the exclusive religion, would exercise a deleterious influence if its ministers were not excluded from holding office. I do not allude to the fact because I have any misgivings of that church; but to show that the exigencies for similar restrictions towards any sect, no longer exist; and that all the notions formerly entertained have no present application.

Mr. Downs concurred in opinion with the delegate from St. Landry, (Mr. Lewis,) that the exclusion of clergymen was entirely unnecessary, and that it was invidious and unjust.

Mr. Marigny opposed the motion to lay the section on the table.

Mr. Chinn withdrew his substitute.

Mr. Ratliff spoke in favor of postponing the question.

Mr. Chinn called for the adoption of the section.

The question was taken upon Mr. Lewis' motion to lay the section indefinitely on the table. The ayes and noes being called for,

Messrs. Brent, Cenas, Culbertson, Derbes, Guion, Humble, Denner, King, Leonard, Lewis, McRae, Mayo, Mazureau, O'Brian, Peets, Penn, Prescott of Avoyelles, Preston, Ratliff, Read, Roselius, Saunders, Sellers, Soulé, Splane, Stevens, Taylor of St. Landry, Trist and Waddill voted in the affirmative—29 ayes, and

Messrs. Beatty, Boudousquie, Bourg, Briant, Brumfield, Cade, Carriere, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Downs, Dunn, Garrett, Hudspeth, Labauve, Legendre, McCaleb, Marigny, Porter, Prescott of St. Landry, Prudhomme, Pugh, Roman, St. Amand, Scott of Baton Rouge, Taylor of Assumption, Wederstrandt, Winchester and Winder voted against the motion—30 nays.

The question then recurred on the adoption of the section.

Mr. McRae proposed the following amendment : "that attorneys and counsellors at law shall be excluded."

Mr. Roselius: I move a sub-amendment that practising physicians be also excluded.

Mr. Mayo moved to exclude all persons convicted of infamous crimes,

But before these amendments were submitted,

Mr. Beatty called for the previous question.

The President put the question "shall the previous question be now put?" ayes 37; noes 19.

The question was then taken on the adoption of the section, and was carried in the affirmative, as follows :

Messrs. Boudousquie, Bourg, Briant, Brumfield, Cade, Claiborne, Carriere, Cenas, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Garcia, Garrett, Humble, Labauve, Legendre, McCalop, Marigny, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Scott of Baton Rouge, Sellers, Soulé, Taylor of Assumption,

Wederstrandt and Winder—37 ayes; and

Messrs. Beatty, Brent, Downs, Hudspeth, Kenner, King, Lewis, McRae, Mayo, O'Brien, Peets, Penn, Preston, Splane, Stevens, Taylor of St. Landry, Trist, Waddil and Winchester—19 noes.

On motion, the Convention adjourned till to-morrow, at 11 o'clock, a. m.

THURSDAY, February 20, 1845.

The Rev. Mr. PRESTON opened the proceedings by prayer.

The journal was read and approved.

Mr. CHINN gave notice that at the proper moment he would introduce a new, and one that he conceived to be a very important section, into our new constitution. He sent it up to the secretary's desk (being in bad health,) and fearful that he might not at the moment be in his seat when it was wanted to be read. Before the secretary read it, he remarked that it came under the head of "general provisions," and he should not and did not intend to call it up at this time. The section which he proposed and which he wished adopted reads thus:

"Any person who, from and after the adoption of this constitution, shall send a challenge, or be in any way engaged in fighting a duel with deadly weapons, either as principal, second, or even as a witness, shall be hereby deprived and deemed ineligible to any office of honor or profit under this coustitution."

The resolution of the honorable gentleman was laid on the table subject to call, at his own request.

Mr. O'BRYAN then moved a series of resolutions, which he moved should be adopted.

1st. That when the Convention adjourns on Friday next, it shall adjourn to meet again on Tuesday the 11th of March next at 12 A. M., in the hall of the house of representatives, at the State house.

2d. That in the meantime the business of this Convention shall cease, and the per diem of the members and officers of this Convention shall also be suspended during said adjournment.

3d. That the committee on contingent expenses be requested to notify Madame Hawley that we have returned her possession of the room called the "ball room," at present occupied for the deliberations of this body; to date from to-morrow the 21st

Mr. DUNN moved to lay the resolutions on the table indefinitely.

Mr. KENNER moved a call of the house, on which it appeared there were 55 members present. But Mr. Dunn's motion appearing in order, according to the decision of the president, the question recurred in laying Mr. O'Bryan's motion on the table. The motion of Mr. Dunn resulted as follows:

Yeas—Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Brumfield, Carriere, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Humble, Kenner, King, Labauve, Legendre, Leonard, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Porche, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Saunders, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—46.

Nays—Messrs. Cade, Hudspeth, McRae, O'Bryan, Prescott of St. Landry, Prescott of Avoyelles, Scott of Baton Rouge, Scott of Feliciana, and Taylor of St. Landry—9.

The resolutions of Mr. O'BRYAN were consequently laid on the table indefinitely.

Mr. DUNN then offered a resolution that this Convention should hereafter meet at 10 o'clock every morning, (Sundays and holidays excepted) and adjourn at 3 P. M.; further, that no motion to adjourn to meet at any other periods than those specified, shall be entertained by this house, unless called for by a two-thirds vote; and further, that a motion to adjourn this Convention for the purpose of removal to any other part of the State shall be entertained by a majority vote, if the member introducing such a proposition give three days' notice to this Convention.

Mr. WADDILL thought that there was really too much time lost in discussing about these miner matters, and we are in the meantime losing much valuable time that ought to be devoted to more serious ones; and therefore he moved to lay Mr. Dunn's resolution indefinitely on the table.

Mr. VOORHIES had tried, he said, to enforce the 10 o'clock rule with perseverance and earnestness, but to no avail. He thought the loss of delinquent members' *per diem* would make them punctual, and therefore that was the mode to bring them promptly here at 10 o'clock.

Here Mr. RATLIFF reminded him that he was not in order, as the motion was not debatable.

Mr. BRENT offered a substitute to the resolution of Mr. Dunn, to this effect: that no leave of absence be granted to any member of the Convention, no matter on what account, except in the event of his being sick; and that in no case of absence from the Convention he should be entitled to his *per diem*, unless he had previously obtained leave of absence from the Convention.

Mr. KENNER then moved to lay the resolution of Mr. Dunn and the substitute to it on the table indefinitely, on which motion the yeas and nays were called for.

Mr. TAYLOR here remarked that the calling of the yeas and nays on every trifling occasion had become unreasonable, and amounted to an useless waste of time and money. He would, for the sake of illustration, give the time and cost of the useless debate now before the house: it already had taken the time of the Convention ten minutes, and that, according to the calculation of our *per diem* expenses, would cost the State some $2,62-100; and therefore to save further trouble and useless expense he hoped the call for yeas and nays would not be persisted in, and he appealed more especially to those gentlemen who were so loud in their expressions of economy.

The call was, however, persisted in, and resulted as follows:

Yeas—Messrs. Beatty, Benjamin, Bourg, Brent, Brumfield, Cade, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Garcia, Garrett, Hudspeth, Humble, Kenner, King, Labauve, Legendre, Leonard, Lewis, McCallop, McRae, Marigny, O'Bryan, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—49.

Nays—Messrs. Brent, Carriere, Dunn, Mayo, Peets, Peen and Porter—7.

The PPERIDENT then submitted to the Convention a letter of invitation from Mr. Labuzan, on the part of General Lewis, inviting the Convention to attend at and witness a review and sham battle, which was to take place near the city in honor of the birth day of Washington; and further, to partake of a collation thereafter.

On motion of Mr. CLAIBORNE the invitation was accepted.

Mr. W. B. SCOTT now called the attention of the Convention to the resolution he had offered in relation to removing the sitting of this Convention to Jackson; he desired it should be taken up and laid on the table, subject to call.

Mr. VOORHIES moved to lay the resolution on the table indefinitely.

The yeas and nays were again called for and resulted as follows:

Yeas—Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Brumfield, Cade, Carriere, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Garcia, Garrett, Hudspeth, Humble, Kenner, King, Labauve, Legendre, Lewis, Mayo, Mazureau, Penn, Porche, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Roman, St. Amand, Saunders, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wederstrandt, Winchester and Winder—45.

Nays—Messrs. Dunn, Leonard, McCallop, McRae, Marigny, O'Bryan, Peets, Porter, Prescott of Avoyelles, Read, Scott of Baton Rouge, Scottof Feliciana, Waddill and Wikoff—14. So the resolution was laid on the table indefinitely.

Mr. TAYLOR then desired to engage the attention of the house to a new rule which he desired to see adopted; it was to this effect: "The yeas and nays shall not hereafter be taken on any question, unless ten members rise to support the call for them."

He was induced to do this for two reasons. 1st. Because it was evident these frequent calls for the yeas and nays on unimportant matters only tended to retard the deliberations of the Convention. 2d. That the effect evidently was to keep the members of the Convention here so much longer than was necessary, to say nothing of the expense of it to the people.

The PRESIDENT here reminded Mr. Taylor that when any rule of the house was contemplated by the resolutions offered by members, to be changed, that the rules adopted already by the Convention, required the resolution offering to alter the same should lie over for one day.

No objection being offered, the resolution

to introduce the new rule was postponed till to-morrow, the 21st, with the understanding that it was to be taken up immediately after the reading of the journal.

Mr. RATLIFF moved that Mr. Roselius be added to the committee on contingent expenses. He stated that the members composing that committee were sometimes at a loss to know what was just or unjust in the printers' accounts; that if the Convention would add Mr. Roselius to the committee, they would have the advantage of practical experience and knowledge. No objection being made, Mr. Roselius was, by the president, added to the committee.

The Convention then, on motion of Mr. Humble, proceeded to the order of the day, which was the report of the committee of revision, on those articles adopted in the new constitution by this Convention.

Mr. LEWIS moved the adoption of the 1st section of the 1st article of the constitution, as reported by the committee of revision, which reads thus:

"The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them to be confided to a separate body of magistracy, to-wit: those which are legislative to one, those which are executive to another, and those which are judicial to another."

It was adopted.

The 2d section of the 1st article was then called up.

Mr. MAYO then moved to insert the words "hold any office," after the word "shall," in the second line.

Before any action was had upon Mr. Mayo's motion,

Mr. KENNER desired to express his opinions as to the duty of the committee of revision. It was simply to correct any grammatical errors that might have crept into the sections of an article, as first adopted; but he emphatically desires to say that he denies the right of that committee to change the letter or the spirit of the section, as it has already passed. For, said he, if that permission be given, we shall sit here till doomsday. We shall settle a matter to-day, and some five or six weeks hence we shall have the same discussions and the same arguments over again, *ad infinitum*.

Mr. BENJAMIN regrets that he is obliged to object to the 2d section as reported; but he is confident that, as it stands, it is identically the same as in the old constitution. In the section of that constitution, there was a doubt existing in its phraseology; and the object of this Convention, when they altered it, was to prevent one department of our State government from interfering with any of the others; in other words, to specify what shall be the powers of each department.

The committee of revision, however, in their report of the 2d section, (the one now before us) have brought the ambiguity back again; and he (Mr. Benjamin) decidedly prefers the language adopted in the section by the Convention to that in the report. He therefore moved to reject the report of the committee as to the 2d section; but afterwards, (on an explanation given him by Mr. Taylor) he moved to withdraw his first motion, and then moved that it be referred back to the same committee for their re-consideration, which motion prevailed.

That question being disposed of,

Mr. CONRAD moved that the Convention should proceed to the orders of the day, which was, first,

SEC. 6. The governor shall have power to grant reprieves for all offences against the State, and, except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures after conviction. In cases of treason, he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

The section was adopted.

Section 7th was then taken up. It is as follows:

SEC. 7. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

That section was adopted.

Section 8th was the next in order; it read as follows:

SEC. 8. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenat governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal,

death, resignation or inability, both of the governor and lieutenant governor, declaring what officer shall act as governor, and such officer shall act accordingly until the disability be removed, or a governor shall be elected.

Mr. BENJAMIN moved that the word "inability" in the 9th line be stricken out, and the word "disability" be substituted, which was agreed to.

Mr. CENAS offered an amendment, which was, that the words "duly qualified" be added after the word "elected," in the – line.

Mr. CENAS said that there appeared to him to be a contradiction between the section under consideration and the 4th section. In that, it reads "The governor shall continue in office until his successor shall have taken the oath of office," &c.; in this, it says not only that the governor, but "the lieutenant governor shall perform the duties of the office."

Mr. ROMAN thinks the confliction which Mr. Conrad complains of is more imaginary than real. He does not think the sections conflict.

Mr. MAYO thinks, upon close examination of the words of the section, that it conflicts with itself. The first part of it says that, in certain emergencies, the lieutenant governor shall take the place of, and perform the duties of the governor. In the latter part of the section it says that "the legislature shall make the appointment." He thinks that this will produce confusion, a thing certainly not to be desired. He thinks, and therefore moves, that the words "both of them" be stricken out, and the words "of both" inserted.

Mr. ROMAN thought the gentleman had made a mistake in the meaning of the section. To his mind, it carried the impression that the governor and lieutenant governor must have both placed themselves under disability before the legislature could take the matter in hand.

The amendment offered by Mr. Mayo was then submitted to the Convention, and adopted.

Mr. CONRAD moved to insert the words "or disability" after the word "refusal," in the second line; as the officer elected might be temporarily sick when he would be required to qualify under this section.

Mr. CHINN remarked that it would be better, he thought, to lay the whole section on the table, amendments and all, since it appeared that we were not likely to make any progress in it; but

Mr. CONRAD replied that he did not think time was lost in this body by settling an important principle on a correct and proper basis; that he was not satisfied with it as it stood, and that he was determined to be so before he quit it; for he had the floor, and would keep it until he was satisfied on the principles involved in the question. As it stands now, he considers it ambiguous in the latter part of the clause. He desires to know, from the committee who made the report, whether it was their idea or intention for the legislature, in case of such a vacancy or vacancies, as is provided for in the section, to elect the chief magistrate for the whole unexpired term, or only until a new election can be had by the people? He is just as sensible as any gentleman on this floor that time is precious, and that we have none to lose; but he, Mr. Conrad, does not think we should be stopped by the consideration of a few moments of time, in comparison with the necessity of putting to rights, or at least striving to understand, an important provision in the constitution.

Mr. SAUNDERS moved, as an amendment, to insert the words "at the time appointed by the legislature" after the word "elected."

Mr. ROMAN rose to explain. He remarked that it was only during the temporary disability of the governor or lieutenant governor, or both, or in case of their death, that the legislature could be called upon; and that then the legislature would elect the person chosen by them for the balance of the unexpired term of the office.

Mr. BENJAMIN thinks Mr. Saunders' amendment will cover the ground, and therefore seconds it.

Mr. BEATTY desires to know if it be intended to give to the legislature the power of appointing for *four* years, in case it might happen a governor or lieutenant governor shortly after their election, when their own power as legislators only lasted for two years.

Mr. CONRAD agreed in part with Mr. Beatty: the section before us provides for the vacancy, he cannot help thinking, in a doubtful manner.

Mr. SAUNDERS again pressed his amendment, but Mr. Beatty did not think that that amendment covered the ground in doubt.

Mr. Saunders then proposed to change his amendment, to withdraw the first and substitute therefor the words "for the residue of the term."

Mr. Beatty is not yet satisfied; he does not think it yet meets the case.

Mr. Pugh thought the difficulty could be obviated by inserting the words "for the residue of the constitutional term."

Mr. Downs thought the principle ought to apply as well to the lieutenant governor as to the governor.

The president then requested of members to reduce their amendments and substitutes to writing. He said the members (he was sorry to say) sometimes jumped up and offered amendments, one after another, so fast that it was impossible to know, or even to try to recollect which was first in order.

Mr. Penn then offered a substitute for all the latter part of the section, striking out all beginning at the 6th line, and inserting "in case of removal, resignation, incapacity or death of the governor and lieutenant governor, the legislature shall declare what officer shall be appointed for the residue of the constitutional term."

Mr. Benjamin, with all due deference to the opinion of the gentleman last up, thinks Mr. Downs' proposition will come nearer to the wants of the case, and shall prefer it.

Mr. Downs then proposed to insert the words, as the last clause of the section, "and such officer shall not act accordingly, until the disability be removed, for the residue of the term."

This proposition was agreed to, and the section as amended was adopted. It reads as follows:

"In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation, or absence from the State, the power and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor absent or impeached shall return or be acquitted. The legislature may provide by law for the case of impeachment, removal, death, resignation, disability, or refusal to qualify, of both governor and lieutenant governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed, for the residue of the term."

The President then laid before the Convention a letter which he had received from Mr. McCabb, on the part of the committee of arrangements, inviting this Convention to attend a celebration to be held at Clapp's church on the 22d February next, by the scholars composing the free school system of the second municipality, and to hear an address to be delivered on that occasion by Mr. Benjamin.

The next section in order was

Sec. 9. The lieutenant governor, or other officer discharging the duties of governer, shall during his administration, receive the same compensation to which the gov. ernor would have been entitled, had he continued in office.

It was adopted with some objection made by Messrs. Taylor and Mayo, but afterwards withdrawn.

The next matter presented was

Sec. 10. The lieutenant governor shall by virtue of his office, be president of the senate, but shall only have a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members, for that occasion.

Mr. Taylor moved to amend by striking out the words, "shall only have a casting vote therein," and insert "have a right, when in committee of the whole, to debate and vote on all subjects, and when the senate are equally divided to give the casting vote."

Mr. Mayo objected to it on account of its having a tendency, in his opinion, to make an interference in the different depatments of the government—the executive with the legislative. He thinks they ought rather to be separated than thrown together.

Mr. Roman agreed with Mr. Mayo, for in the event of granting him those privileges, he would become a legislator in addition to his executive right. Besides, in the senate of the United States they have no committee of the whole, (nor does he believe they have any in this State,) they form themselves into quasi committees. The vice president of the United States never takes part in the debates. He is not a legislator, and he only votes and speaks in case of a tie.

Mr. Downs agreed with Mr. Roman, that in the senate of this State, they had no committee of the whole, at least they had

not had one for the last seven years, and probably never would have.

Mr. Taylor is induced to press his amendment, however, for he did not bring this proposal forward without having maturely reflected upon it. He conceives the advantage which would result, would be great and important. 1st, by increasing the duties, you thereby attach more importance to the office, and are likely to procure the services and talents of a man of ability; as it is, it is comparatively an office of no consequence; he can only be useful in case of an equal division, no matter how talented he may be; and he is required to sit in the chair with his mouth shut, except in the case of a tie vote. There would be, to his mind, 2dly, another advantage, that is, in case of the death or disability of the governor, we shall have secured the services of an able man to take his place; while on the other hand, in such an emergency we might be found with a very ordinary man as lieutenant governor, to administer important duties that required great discretion, firmness and knowledge of such business. In one case you give him a chance to shew his ability, on the other you but burden him with an unpleasant part. He can see no possible harm to arise from his amendment, and therefore still presses it on the attention of the Convention.

Mr. Beatty agrees with Mr. Taylor, and thinks the distinction drawn by some gentlemen is nothing but a verbal one, for he has no other duties assigned him except to be president of the senate, and he is not called to do any other duty but what pertains to legislative capacity.

Mr. Conrad, after a short reflection on the matter, thinks there is much reason in Mr. Taylor's suggestions. He would be willing to give the lieutenant governor the power of debating in the senate, because should he be a man of ability, his views on many important questions that may be discussed, might be valuable; and he would move as a further amendment to insert after the word "senate," "shall have the right of participating in the debates;" but he would not be willing to increase the privilege to the extent claimed, in the right of voting on all occasions. He would certainly confine his vote to the casting vote alone.

Mr. Taylor wished to inform the Convention that this is no new idea; and that the same feature is to be found in the constitution of Indiana and some others.

Mr. Porter is opposed to granting either of the extra privileges asked for the lieutenant governor. He has examined the constitutions of several States, viz: of Mississippi, Ohio, Virginia, Georgia, New Jersey, Pennsylvania, New Hampshire and Maine, and no such powers are granted therein. In fact there are very few that give the power, and for his part, he thinks not only precedent is against it, but that we should be careful not to allow any of the departments to interfere with each other; whereas, accept this amendment and we shall have one new debater and one additional vote, and that, too, to be given by an officer in the executive department.

Mr. Boudousquie is of the same opinion as Mr. Porter. He thinks it would destroy the just equalibrium of power that ought particularly to be observed in the senate. When the constitution of the United States was framed an equal representation was secured to all, particularly in the senate, and there can be no doubt if they had one new debater and a vote on all questions, that the equilibrium, there as here, would likewise be destroyed. Besides, the influence of the lieutenant governor as an executive officer (on all occasions when he saw fit to take part in the debates,) would be great, and that also should be guarded against. He thinks with Mr. Porter, that it would give too much power to the executive branch over the legislative branch, and therefore he moved to lay the amendment of Messrs. Taylor and Conrad indefinitely on the table, which motion prevailed.

Mr. Read moved to strike out the words "for that occasion," in the last line, and insert the words "for the time being." Adopted.

Mr. Downs was desirous of making a suggestion which the Convention might reflect upon, and which if entertained, would change the character of the whole section. It seemed to him that the committee in making the office and in defining the duties of the lieutenant governor, as they have done, must have been more anxious to make the office than to give the incumbent any thing to do. While he had no particular objection to the creation of such an officer, he thought with the member from Assump-

tion, that he ought to be a man of talent and ability; and he is of opinion that such a man might be of immense service to the State. He would recommend, that the office should be made of that value as would induce able men to seek it, and he thought that by his performing the duties of secretary of state in lieu of that of president of the senate, that the object might be accomplished; in that way we could afford to pay a man something worth his attention. He recommends that the words in the section be so changed as to accomplish it, and that the section be recommitted to the committee for that purpose.

I am very well aware, sir, (said Mr. Downs,) that I shall be told that this is a new idea. I admit it—but sir, I think I have good reasons to offer for making this change in the section. In the first place, if he is only to act as president of the senate, will the sum be sufficient to induce any man to seek the office, or take it, where the emoluments are only two hundred and forty dollars, $4 per day for sixty days—and then only biennial sessions? It is too insignicant a sum for a man to devote his time for, who is worth having. In the second place, it must be clear to every one, that in case of such an emergency as the death of the governor, it is every way desirable that we should have a man (designated as his successor to hold the reins of government for the remainder of his term,) who has some knowledge of the science of government, and who knows something of the policy pursued by the governor at the time of his death or disability; and by making the lieutenant governor act as secretary of state, he will be placed in constant communication with he governor, will consult with him on all occasions, will become better known to the people, and will make himself a more useful officer of the government, without it costing the State one dollar more. In the third place, it would diminish the patronage of the executive, for we should then have the duties performed by two in lieu of three officers. He thinks two enough, because, under the changes contemplated in our new constitution to change the mode now in operation of appointing many officers, he means such officers as sheriffs, justices of the peace, and many other officers, which it is generally believed will be hereafter elected by the people; the duties required in the executive department will be diminished. For his part he thinks the office of state treasurer should be one coming directly from the people. In the fourth place, he would be as a cabinet counsellor as at Washington. There all the secretaries enter into deliberations with the president on all important matters; they set at the board with him, and give free vent to their opinions on a footing of perfect freedom, and frequently have an important influence on the actions of the president. In many other States they have provided for a separate counsel, to advise with the governor on State matters. Although he (Mr. Downs) would not now recommend such a measure here, yet it is always better to have some constitutional adviser who could bring his talents and information in aid of the governor, on every important occasion. In the fifth place, it would raise the character and importance of the office of secretary of state, which from some cause has heretofore been regared as an office of too little importance. In all previous administrations in this State, it has been considered that the governor was everybody; and the secretay of state, and his other officers, next to nobody.

He thinks it would lead to good in another way. Heretofore, without referring to any particular governor, he has noticed a great defect, the result of which might lead to serious evil—and that is the frequent and continued absence of both governor and secretary of state from the capital, particularly during the sickly seasons, and very frequently when important action is wanted it is left entirely to the governor's private secretary, an officer not known in the constitution. He has many other reasons which have considerable weight with him. There may be objections to his plan, but if so, he is not aware of them. It is a new principle he admits, but he thinks it a reasonable one, and therefore should be adopted. He would be glad members would take time to reflect a little on it, and with that view he would move to re-commit the section.

Mr. Marigny would detain the Convention but for a very few moments. He desired to remark that the only reason why the framers of the constitution of 1812 did not create the office of lieutenant governor, was, that the State was then too poor; and it was deemed *then* an unreasonable thing

to make such an important office without attaching to it a respectable salary. What, (said Mr. Marigny,) do Mr. Downs' five reasons amount to? For his part, he regards them as having no bearing on the question; indeed, he considers them ridiculous. What would become of your lieutenant governor, if he be only a secretary of state? lieutenant governor if called upon in case of the death of the governor to perform the duties of governor, without a secretary of state? for in that case you would have no secretary of state.

He remembered the difficulties which occurred after Mr. Derbigny's death, and how they retarded and fettered the progress of the government. The senate, which elects its president every year, took the helm of affairs, as provided for in the constitution. In case they had elected a new president every year, and the governor had died shortly after his entering on the duties of the office, we should have seen four governors in the period of four years—and how do they propose to remedy it? On the one hand by making a lieutenant governor; on the other hand, by making the secretary of state the governor's successor in case of death or disability!!! To pay the former a salary of $240, and the latter the same price paid to the secretary of state. Our course reminds him of a man crazy to play a game of "marionettes," but at the same time was too mean to pay for it. He thinks the section is right in all but one thing, and that is that the lieutenant governor should have a salary more in proportion to the importance of his station; that he should get a salary of from say $1000 a $1500. That would not be too great a sum. When economy is necessary, it is time to be economical, but that sum can be spared, when the revenues of the State are constantly increasing. He objects to the proposed amendment of the member from Ouachita: he thinks, as he said before, it would be ridiculous to entertain it for a moment, and shall oppose it with his vote.

Mr. Benjamin agrees with Mr. Marigny; the proposition made by the gentleman from Ouachita, (Mr. Downs,) struck him with great astonishment. He thinks by following such a plan we should be complicating the offices for no practical advantage, and we should have to provide for unseen cases. One of the reasons which made him yield in committee to the creation of the office of lieutenant governor, was that by forming a kind of executive council between the three officers, the governor, lieutenant governor, and secretary of state, was that much benefit might be derived from it pratically, as for instance in the selection of officers and otherwise, it might happen in many cases of importance that the governor would yield to the suggestion of each or both of the others if he found himself alone in his opinion, which he would not do if he had only his secretary of state to consult with. The main reason alleged for the lieutenant governor being allowed the privilege to enter into the debate, was that he might have an opportunity to distinguish himself, and that thereby we should bring forward our best talent for the office; but it seems to me, sir, this is a mistaken notion. In his, (Mr. B.'s,) opinion the privilege of presiding in the senate and of giving the casting vote when senators divide, becoming thereby the senator of the State at large, is a great honor; and he thinks there is no citizen, however brilliant in his talents, but might well be proud to accept the office; add to that the possible chance that every lieutenant governor will have of stepping into the executive chair from unforseen causes, surely there are sufficient inducements to make the post an enviable one, and he, Mr. B., has no fear that the office will go begging while we have so many able men amongst us.

For these reasons he shall oppose the amendment offered by the member from Ouachita.

Mr. Roman had but a few remarks to offer, for he conceived that the whole ground had been covered by the two gentlemen from New Orleans.

He agrees with the gentleman from Ouachita, that the office of secretary of state should be one of dignity. If reference, however, was had to the next clause, it would be found that provision had been made to raise the dignity of that office, which would hereafter not render him liable to be displaced at the will of the governor, after his appointment had been confirmed by the senate.

In reply to the remarks made by the gentleman from Ouachita, (Mr. Downs,) he felt it due to himself to say a few words. The assertion is made that for some time

during the summer months, and during the sickly season, the executive government has been abandoned generally, *for years back, at least*, to the private secretary. As to himself, he feels bound to give the assertion an unqualified denial. While he had the honor to fill the gubernatorial chair, he had invariably selected for the office of secretary of state, a gentleman who was a resident of New Orleans and who never left the city, and the duties of the executive department had never devolved on the private secretary; and so far as he knows and believes, up to the period of his leaving office, the same rule adopted by him had been the invariable rule. What had been the course pursued by the present governor he was ignorant of. But how could the evil complained of be remedied by the proposition of the gentleman from Ouachita? Why, if the lieutenant governor were elected by the people at large, he might be selected from, and no doubt would, one of the country parishes, and then he would most likely have to leave the city during the sickly season too. He thinks there is no weight in the reason assigned. He desires to say a few words in reply to the delegate from New Orleans, Mr. Marigny. He is of opinion that he is also mistaken as to the propriety of paying the lieutenant governor $1000 to $1500 a year for his services. The committee who made the report came to the conclusion that, in fixing the emoluments of the office, they should be governed by the duties he had to perform. When he performed the duties of president of the senate, he got the same pay as other senators did, and should he by chance be called upon to act as governor, he would get the same salary that was provided for the governor. In both cases, he thinks, the committee is right, and that the salary in either case is enough.

Mr. Ratliff accords with Mr. Downs in his motion for one reason, that, in uniting the offices as asked to be done, we should be virtually going back again and striking out the office of lieutenant governor. He has been ever opposed to the creation of that office. He thought it an useless one, and one only introduced into the constitution for the purpose of vesting some man with a title without having any thing to do. Mr. Ratliff remarked that we had now really arrived at that point described by some English traveller, who had written and published an account of his travels in America, and that the Americans were the most extraordinary people on the face of the earth, in one thing, and that was, in the pursuit of offices of all grades and kinds; and he further remarked, what was pretty true, that nothing less than a squire or a colonel could be found in the United States. Here we want to create an office to put somebody in it, not that there is any occasion for it, any more than there is for a fifth wheel to a coach. He further would object to it for another reason. He would be elected by a party. He will act as a party man, and the more talents and the more energy he has, the more dangerous he will be. It was intended that the senate, the natural guardian of the rights of the minority, should be a check on executive power; now, how can that check be said to exist, when in case of a tie vote the president of the senate has the power by his vote of ratifying the acts of a governor, right or wrong? The probability is, as one thousand to one, that being in the executive department, himself, that he and the governor would be hand and glove, and would understand each other thoroughly. Another objection to having such an officer would be, that we should be almost surely to get some incompetent man. No man of talent who can find something better to do with his time, will be found willing to make the canvass of the State, and expend a thousand dollars at the very least, in doing it, for the great privilege of getting two hundred and forty dollars every two years. Well then, some one is elected who knows nothing of the duties of the office; he will be embarrassing the senate at every step they take, and they will retort upon him, and then we shall have a pretty scene of confusion. Let us then abolish and do away with the office, and elect a secretary of state in place of him, who shall succeed the governor in case of death or disability, and then give him the power to appoint in such case another secretary of state, for the unexpired term of his office—that would do very well. For his part, he don't want to see so many big names in our constitution. He is in favor of having a secretary of state elected by the people, and in case of any difficulty as to an interregnum, let the legislature provide for it. As it is now, we

shall never get a man of talents for the post in the world; he will be some man who never had any thing to do with politics in his life, and

Here Mr. BEATTY called the honorable delegate to order, for, (said he,) Mr. President, he is discussing *not* the motion before the house, *but* he is discussing a principle definitively adopted into the constitution two hours ago.

The PRESIDENT did not think Mr. Ratliff out of order.

Mr. BEATTY appealed from the decision of the president, but on the call (in several parts of the hall) of "go on," "go on," "go on," Mr. BEATTY did not persist in his appeal.

Mr. RATLIFF: "the gentleman thinks, sir, I am not in order; well, I think sir, I ought to know, for I have had a greater deal more experience in parliamentary proceedings, I reckon, than he has; and I assert that I have a right to speak, sir. He, Mr. McRae, can appeal to the president, and ask if he has not always bowed with submission to the decision of the chair, and he always will do so; but he can always address the house: he knows he can, for he does not, like many others, offer to address the house twice on the same subject.

He, Mr. McRAE, said he had almost got through with his remarks, when he was so *kindly* interrupted, and should detain the Convention but one moment longer.

How, sir, was it possible to disconnect the questions without inquiring into the possible duty and the defined duty in the section of the lieutenant governor, without attempting to show that the lieutenant governor would be a mere automaton, a kind of nothing, except for the purposes of political power, unless the motion of the delegate from Ouachita prevailed? It was not possible. Well, sir, I want no lieutenant governor, but I want a secretary of State elected by the people."

Here Mr. RATLIFF turned round to Mr. Beatty, and asked if that was unparliamentary?

Some of the views of the delegate from St. James met his hearty concurrence, with respect particularly to the keeping of the duties separate of each officer of the government. He, Mr. McRae, wants each, separate and distinct. He wants the secretary of state to perform the duties properly belonging to his office; to give all information of the acts of the executive department when called upon in a proper manner; to make annual reports for the information of the citizens at large; and moreover, he would like to see him one of those officers, who, if he does his duty well, should not be made ineligible for a second term.

The lieutenant governor is a mere name any how, and he thinks we might yet abolish the office and make an elective secretary of state; or if we can't do that—why, then, couple the two offices of lieutenant governor and secretary of state together, and at least take away from him his political power in the senate. We could now make a section before we get through with this article in the constitution defining the mode by which a successor to the secretary of state may be appointed, in case it might happen he was called upon to take the duties upon himself as governor. For these reasons, and with the view of reaching what he aimed at, he should vote for the motion of the gentlemen from Ouachita.

Mr. BEATTY moved the previous question.

Mr. DOWNS protests against this off handed way of cutting off debate.

Mr. DOWNS then proceeded: He said that he was pleased to hear from Mr. Roman himself, that he (Mr. D.,) was mistaken in the assertion which he had made with regard to the executive abandoning their duties at the capital during the greater part of the summer and fall months. He stands corrected, but in justification of himself, he felt bound to say, that in the section of the country in which he resided the assertion he had made was matter of public rumor. He was glad to know the facts of the case were otherwise. He desired to say in answer to Mr. Marigny, that at least, it would have been expected in all fairness and reason that he should have advanced some arguments to rebut his (Mr. D's.) assigned reasons for the amendment, before he so sweepingly termed them as ridiculous. He could conceive nothing ridiculous in the amendment, and he is at a loss to know what to attribute Mr. Marigny's assertion to, in so calling it—unless indeed, it was the small piece of paper on which it was written, being something supremely ridiculous in his eyes.

The only argument he attempted to combat was that it would be right and proper to make the lieutenant governor secretary of state—and that the duties of that office should pertain to him, with the emoluments of that office; and he gave us no argument in answer, but endeavored to turn it into ridicule. Now, sir, I want argument, not assertion. It is very easy to say, in an off-hand way—"oh! it is ridiculous!" but sensible people are very apt to ask, why? And when no satisfactory reply is made, the ridicule, and the sarcasm connected with the ridicule, recoil upon the person who roundly makes the unwarrantable assertion; unwarrantable because he can shew no cause for it.

If in the reply which has been made to the proposition of Mr. Taylor, it could be shown me that when a man who has been elected lieutenant governor would feel perfectly at his ease, to be pent up inthe seat as president of the senate, to hear himself attacked and abused without a chance to say one word in reply, as was the case with Calhoun, Van Buren, and Johnson, I might perhaps agree with Mr. Benjamin, that the honor is commensurate with the sacrifice of feeling. When he can satisfy me that to be president of the senate and a *chance at* the first office in the State, to arise from the death or disability of the incumbent, is a very agreeable present, or a very flattering perspective; and when he can satisfy me that in the event of the duty being assigned to him by Mr. Benjamin, of being an assistant state counsellor, without any other pay than $4 a day for the period of sixty days, every other year, and that will induce men of a high order of talent to present themselves before the people for their suffrages on account of the distinguished honor conferred on them, then I shall indeed be astounded. Again, the idea of calling on the lieutenant governor to assist in cabinet deliberations, is a new idea. The vice-president of the United States has nothing to do with their deliberations in the cabinet council at Washington; neither Burr, nor Calhoun, nor Van Buren, nor Johnson, ever formed one of the members of such council. And suppose we were to do so here? we could not in reason ask him to devote his time for such service without remunerating him for his time, trouble, and the expenses he incurred in his attendance. If you do that, you will make the office one of three things, and perhaps the whole combined: 1st, an insignificant one; 2d, a disagreeable one; and 3d, an unprofitable one. He (Mr. Downs) has not yet heard any good argument to induce him to change his first views, and hopes, therefore, that the motion to recommit will yet prevail.

Mr. Conrad rose not to detain, but for one single moment to express his views as to the present position of the question before the Convention.

It seemed to him that the only difference between the wants of the gentleman from Ouachita, and the gentleman from West Feliciana, was this: one wants the lieutenant governor to be secretary of state, while the other wants the secretary of state to be lieutenant governor, only abolishing the title, and they both agree that the officer to be elected shall be elected by the people. One wants to abolish the name, but both wanted to keep the office. In all else they agree. Is it worth the time that has been taken to argue it?

The question is now, shall the lieutenant governor be president of the senate? or shall he be the secretary of state? To that complexion it must come at last. He therefore seconded Mr. Beatty's motion for the previous question.

Mr. Benjamin then moved that the motion made by Mr. Downs be laid indefinitely on the table.

Mr. Claiborne desired to say, that he thought the amendment proposed by Mr. Downs was worthy of consideration—and as such he would like to have it recommitted. He thinks that no proper person would be found willing to take the office as at present tendered to him, under this Constitution.

The question was then put on Mr. Benjamin's motion, to lay indefinitely on the table, and was decided as follows:

Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Cade, Cenas, Chinn, F. B. Conrad, Derbes, Dunn, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Leonard, Lewis, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Prescott of Avoyelles, Roman, Roselius, St. Amand, Sellers, Soulé, Splane, Taylor, Trist, Voorhies, Wadsworth, Winchester and Winder—38 yeas; and

Messrs. Claiborne, Conrad, Downs,

Humble, McCallop, Porter, Prudhomme, Pugh, Ratliff, Read, Saunders, W. B. Scott, T. W. Scott, Miles Taylor, and Waddill—15 nays.

So Mr. Benjamin's motion to lay the motion of Mr. Downs indefinitely on the table was carried. The question was then put on the adoption of the section, as amended by Mr. Read. The section was adopted and read as follows:

"The lieutenant governor shall by virtue of his office, be president of the senate, and shall only have a casting vote therein whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members for the time being."

Mr. Benjamin then moved an adjournment until to-morrow at 11 o'clock, which prevailed.

Friday, February 21, 1845.

The Convention met pursuant to adjournment.

The Convention was opened by prayer from Mr. Stephens, in the absence of any regular minister of the gospel.

Mr. Roselius moved that the invitation tende red to this Convention to attend the examination of the scholars, forming the free school system of the first municipality, at the French theatre, be accepted; and he further moved, that the Convention proceed to that place in a body, at 12 o'clock, to attend at and witness the examination of the students.

He said, in support of his motion, that this Convention would there see some 2000 children, getting, some of them perhaps, nothing more, but at least all getting an ordinary education. The rich man's child mingling with the poor man's child, and thereby gradually acquiring that great sound principle that merit alone is a passport to future eminence. The best evidence of the feasibility of the plan proposed is this: they are striving to introduce education generally, and particularly amongst the poorer classes, who cannot afford to pay for such education. He trusts the Convention will meet his suggestions in the proper spirit. The question before them is an important one, and perhaps one of the most important that could be presented to this Convention.

There is, it is true, a committee on education appointed by this Convention, but he has not heard that they had yet made a report. If this committee will attend that assembly of the children educated at the public expense, and listen to the examination of the pupils, he (Mr. R.) feels sure, that they will be more than ever impressed with the necessity of making such a provision in our new constitution as will cover the whole ground. Now let us look at the practical operation of our accepting this invitation, and attending the examination. It will have a moral effect, and one that will be lasting in its character; that the Convention should attend the examination of the students of the free school system, established but one year, and under that system there are already more than 2000 pupils; the larger part the children of people unable to afford them education unless it were gratuitous. The committee on education of the Convention, are charged with a high and important trust. They doubtless would be prepared soon to report, and no doubt ably. But to his (Mr. R.'s) mind there was no opportunity like the one now offered for witnessing the practical benefits of the system.

On motion of Mr. Roselius, the invitation was accepted, and the Convention agreed to attend the said examination in a body at 12 o'clock.

It was moved and seconded to adjourn till Monday, 11 o'clock; lost.

The next question that was called up was on motion of Mr. Taylor, viz:

To take up his motion of yesterday in relation to the calling of the yeas and nays on any question, without there were ten members rising to support the call for the yeas and nays.

Mr. Scott of Baton Rouge, moved to lay it on the table, subject to the call of the house. The motion was put and lost.

Mr. Benjamin regrets to see the disposition manifested, to force a vote on this or any other question. He thinks that every opportunity should be extended for the purpose of securing a full vote in all matters submitted to this body.

Mr. Conrad was opposed to delay, and thought the Convention was as full now as ever it was at the same hour. He says that many of the articles of the constitution have been adopted with no more mem-

bers than are now present; but for a mere rule of the house, he thinks we have an abundant number of members.

Mr. RATLIFF next addressed the house. He was fearful from what he saw among the members, that they were now attempting to inflict upon us a gag law; and as such he was opposed to it. He objects as much as any one to the frequent calling of the yeas and nays, for he knows it in almost every case to be an useless waste of the people's money, for to that it comes at last. Nevertheless, there may be important questions come up, in the decision of which he may specially desire to record his vote, and yet under the proposed rule. No one would have a chance to get the record filled, unless he run about the house and get ten members to call for the yeas and nays. Thinking it unjust, he should certainly oppose it.

Mr. BENJAMIN remarked that there was a question before the house, to adjourn till Monday morning, and further to take up this question then, the very first thing after the reading of the journal. The motion was then put and carried.

Mr. BENJAMIN then moved an adjournment to 11 o'clock Monday morning, which was carried.

MONDAY, February 24, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings by prayer.

On motion; Messrs. Garcia, Soulé and Briant were excused from attendance on account of sickness; and leave of absence was granted to Messrs. Splane, Pugh, Cade, McRae and Lewis.

Mr. TAYLOR of Assumption, moved that the Convention adjourn till to-morrow at 11 o'clock, a. m., for want of a quorum; which motion was lost.

Mr. O'BRYAN submitted the following resolution, viz:

"*Resolved*, That from and after the 15th day of March next, the Convention will grant no leave of absence to any member, unless in case of sickness of the member or some one of his family."

Mr. TAYLOR of Assumption, suggested, as there was a bare majority, to lay the resolution over until Thursday at 10 o'clock, p. m.

Mr. WINDER moved to lay the resolution on the table indefinitely, and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Bourg, Brumfield, Cenas, Dunn, Hudspeth, King, Legendre, Leonard, McCallop, Mazureau, Porche, Prescott of Avoyelles, Prudhomme, Ratliff, Roman, St. Amand, Saunders, Stephens, Taylor of Assumption, Taylor of St. Landry and Winder voted in the affirmative—22 yeas; and

Messrs. Brent, Carriere, Covillion, Derbes, Downs, Garrett, Hynson, Marigny, Mayo, O'Bryan, Pects, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Trist, Voorhies, Waddill, Wederstrandt and Wikoff, voted in the negative—22 nays; the vote being equally divided, the president voted in the negative, the motion was consequently lost.

Mr. BEATTY moved to amend by striking out the "15th of March," and insert in lieu thereof the words "the 24th day of February."

Mr. RATLIFF: Why that is to day.

Mr. BEATTY: That is what I intended.

Mr. DUNN moved that the resolution and amendment be laid on the table till to-morrow.

Mr. SELLERS opposed the motion to postpone.

The question was taken, and Mr. Dunn's motion was lost.

Mr. TAYLOR of Assumption raised the question of order.

On the question of order, the PRESIDENT decided that this resolution was out of order, inasmuch as the rule offered Friday, by Mr. Taylor of Assumption, was made the special order of the day for to-day, immediately after the reading of the journal.

Mr. TAYLOR of Assumption, called up the rule offered by him, and made the special order of the day for to-day, viz:

"The yeas and nays shall not be taken on any question, unless ten members rise to support the call for them."

Mr. PORTER said he did not intend to discuss this matter, but would simply make a few suggestions which he hoped would induce the honorable delegate from Lafourche, (Mr. Taylor,) to withdraw his proposition. It was not in accordance with parliamentary rules, and was without precedent. The expediency of calling for the yeas and nays, had been concurred in by

the wisest statesmen, and was sanctioned by universal practice. Unless this Convention were about deliberately to pronounce that they were unable to proceed without this gag, and it was essential to paralyze liberty of action, in order to facilitate their proceedings; he could not see how such a motion could be entertained. The great body of the members were not talking members; they did not discuss and debate every question; but still they wished to show their constituents how they voted, and by whom great measures were defeated. It was the right of both the majority and minority to ascertain by whose votes questions of importance were lost or carried. If the present proposition be carried, the next movement should be to close our doors, and expel our reporters, as was attempted a few days ago, and do every thing in secret. I am, said Mr. PORTER, for no such proceedings. I wish all our acts and all our votes to be public; that every man, as well as myself, may show the position assumed, and incur a just share of individual responsibility. But independent of this rule being arbitrary and pernicious in its consequences, I very much doubt whether it will have the effect which gentlemen profess to be their design, that of economising and saving our time. The yeas and nays will be called for as usual, and if they are not taken because there are not ten members to rise to support the call, debates will inevitably be the result. Each individual that supports the call, as he is refused the liberty of recording his vote, will explain his position; and more time will be consumed in a half dozen speeches a day, perhaps, than would be if they were called for and taken in the usual way. Ill feelings and contentions too, will arise, and not only will the design prove abortive, but our proceedings will be arrested from time to time. Mr. Porter terminated his remarks by hoping that the gentleman would withdraw the proposition.

Mr. TAYLOR of Assumption, said he would briefly submit his reasons for suggesting the proposition under consideration. The gentleman from Caddo, (Mr. Porter,) says that the proposition involves a departure from all parliamentary rules. The delegate is under a mistake in making this assertion. All deliberative bodies have an easy mode of ascertaining the different divisions of sentiment that may prevail. They resolve themselves into committee of the whole, where great latitude is allowed to the discussion, but when the yeas and nays are not allowed.

When the question is placed in a definite form, the committee rise and a direct vote by yeas and nays is taken, and then the point at issue is closed. A great deal of time has been lost in the Convention by the call, on every occasion, for the yeas and nays, even upon trivial matters. I do not say trivial in themselves, but insignificant as matters of record. On one occasion, the yeas and nays were called for four times on motions to adjourn. The yeas and nays too, are called upon allowing some petty claim which involves no principle, and is a question only of a few dollars, more or less. No one (said Mr. Taylor,) respects more than I, the proper use of the call for the yeas and nays, or would be more reluctant to yield or deny that privilege when any principle was at issue. Nor have I any apprehension that this proposition will have that result. Its only results will be to prevent an useless waste of time upon insignificant matters, where no principle will be involved. I apprehend no difficulty from the rule; there will always be found eleven members ready to sustain the call for the yeas and nays, whenever the question may possess the least ingredient of principle.

Mr. RATLIFF could not concur in the necessity or expediency for any such gag. By the old constitution, which is in vigor until superseded by the new one, as well in relation to this body as in other matters, it is provided that the yeas and nays on any question shall, at the desire of any two of the members of the legislature, be entered upon the journal. The proposition that has been submitted by the member from Lafourche, (Mr. Taylor,) will engender acrimonious feelings and bitter resentments. Nothing can be gained by it. It will be throwing a firebrand into the Convention. It will excite prejudices, and so far from economizing our time, for every simple response, yes or no, we shall be inflicted with a speech. And in fact, no other mode will exist for a member to develop to his constituents what are his sentiments upon any important matter that may come up, and upon which the majority may not be dis-

posed to accord the privilege of the yeas and nays to the minority.

Mr. Ratliff referred to the motion made this morning to adjourn; because, said he, there happened not to be, at the identical moment, a quorum. The gentleman from Lafourche (Mr. Taylor) complains of asking the yeas and nays upon motions to adjourn. These questions are sometimes of grave importance. They are directly connected with important questions of principle, that might be defeated if the adjournment took place. In this very instance, when the gentleman this morning moved to adjourn, if a quorum had not been in attendance immediately after his motion, it would have been very essential to have called for the yeas and nays, to see, and let the people know, who voted for an adjournment, and the consequent loss of one day's proceedings, because a quorum was not at the precise moment in attendance; because some gentlemen's watches happened to be a little slow, or, like myself, they had some person holding on to their elbow.

The Virginia Convention, which was, both in point of talent and the character of its members, said Mr. Ratliff, the most distinguished body in the United States, had but two rules. There was no squabbling, no difficulty, no gags; every thing went on harmoniously and prosperously to a successful completion. In that, body, so far from prescribing the rigid rules we have heard spoken of in this body, it is a fact that they adjourned for several days, to afford five members who were unavoidably detained from their seats, the privilege of voting upon an important question. There was no feverish haste and excitement. The public business was sedulously attended to, but with calm, cool, dispassionate judgment; no taking advantage on account of absence, nor no gags upon the minority.

I trust, said Mr. Ratliff, that this proposition will be rejected.

Mr. Taylor of Lafourche, begged permission to call attention to one fact. The constitution of the United States contained a provision upon this very subject: that the yeas and nays, at the desire of one-fifth of the members of either branch of congress, shall be entered upon the journal. The gentleman from Feliciana, (Mr. Ratliff,) speaks of the Virginia Convention with high respect. I concur with him in a high estimation of that body, but I do not think, as he does, that it was the most important body that ever assembled in the United States. The Federal Convention, to my conception, was the most important and the wisest political assembly that ever met, and this very provision was the result of their action; the expression of their enlightened views and experience upon record. According to it the call for the yeas and nays in this body, would have to be sanctioned by eighteen members; whereas, according to my proposition, the number is limited to eleven. I cannot consider it in the light of a gag. It would facilitate business, and would throw no impediment in the way of a call for the yeas and nays, upon questions having any pretensions to importance.

Mr. Downs opposed the proposition. It was desirable that our time should not be uselessly consumed; yet taking it for granted that the ayes and nays were called for more frequently than the occasion required, he did not see how this proposition would effect the object assumed. It was of the very last importance that the present freedom should be allowed in calling for the ayes and nays, and it might very well happen that questions, that some might treat as trivial, would be viewed in a very different light by others.

Mr. Marigny moved for the adoption of the rule, and called for the yeas and nays:

Messrs. Beatty, Benjamin, Bourg, Brumfield, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jeffersson, Covillion, Culbertson, Derbes, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Porche, Roman, Roselius, St. Amand, Saunders, Taylor of Assumption, Trist, Voorhies and Winder voted in the affirmative—26 yeas;

Messrs. Brent, Carriere, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Leonard, McCallop, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of St. Landry, Waddill, Wederstrandt and Wikoff voted in the negative—29 nays; consequently the motion was lost.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

Sec. 11. "While he acts as president of

the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more."

Mr. Marigny moved to amend by striking out all the words of the first line, moreover the words, "the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more," and insert in lieu thereof the words "a compensation shall be fixed by the legislature."

Mr. Marigny said he did not think it becoming the dignity of the State, to allow to so high a functionary, so small a compensation as four dollars a day. and that only during the legislative sessions, which were to be held biennially. If it be expedient, said (Mr. M.) on the one hand, to use a prudent economy, on the other we should avoid a niggardly parsimony. In leaving the compensation to the discretion of the legislature, we need entertain no apprehension that they will be disposed to act with too much liberality. But, we will leave it to them to decide what is a fair compensation, for it may well happen that a person may be designated, on account of his great merit, whose fortune is but small; and if you maintain this provision in your constitution, you will exclude from that office all other citizens but those whose circumstances and positions are independent.

Mr. Marigny's motion was lost.

On motion, the said 11th section, as reported, was adopted, viz:

Sec. 11. "While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more."

The 12th section was then called up; viz:

Sec. 12. "A secretary of state shall be appointed and commissioned, to hold his office during the pleasure of the governor. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings of the governor, and when necessary, shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law."

Mr. Claiborne moved to strike out the words "during the pleasure of the governor," and insert in lieu thereof the words "during the term for which the governor shall have been elected, if he shall so long behave himself well."

Mr. Claiborne said his object, by this amendment, was to make the secretary of state independent—not the creature of executive will. It might happen that the duties of that office may become incompatible with a dependance upon the executive will. He was by law required to keep an official register of the official acts and proceedings of the governor, and to submit them to the general assembly when required. There was no propriety in placing him in a subservient position, and hence his (Mr. Claiborne's) amendment.

Mr. Conrad of New Orleans, moved to amend the amendment, by striking out the words "if he shall so long behave himself well."

Mr. Conrad: these words were superfluous, "as long as he behaves himself well." They were nothing. The secretary of State, like all other officers, is subject to removal by impeachment for misconduct.

Mr. Downs: they are similar to the provisions in the old constitution.

Mr. Claiborne was indifferent as to that matter. He would accept of the suggestion of his colleague.

Mr. Benjamin was in favor of the section as reported. He conceived it would be exceedingly inconvenient, if, in the event of a disagreement between the governor and the secretary of State, the former was compelled to retain the latter. The public service would perhaps suffer, and inasmuch as the secretary of State was in direct and constant intercourse with the governor, and the latter was elected by the people, it seemed to him that the governor should be allowed the privilege of retaining the secretary of State, or of dismissing him if the state of their official and personal relations render it necessary.

Mr. Porter expressed his decided preference for the section as amended by the delegate from New Orleans, (Mr. Claiborne.) In referring to the constitutions of the several States, I find that in fifteen the

secretary of State is elected on joint ballot by the legislatures; three in which the secretary of State is elected by the people; and three only, to-wit: the States of Kentucky, Louisiana, (whose constitution is moddeled on that of Kentucky) and Delaware, where the secretary is appointed by the governor by and with the advice and consent of the senate. Mr. PORTER said he concurred fully in the views of the delegate from New Orleans, that the secretary of State might not be placed in a position to be the tool or the automaton of the governor. He said that the provision which the gentleman last up (Mr. Benjamin) had boasted of having introduced in committee, that the secretary of State should be removable at the discretion of the governor, was to be found but in one constitution in the United States. He was opposed to the one man power, even in appointing *to* office, but when it comes to appointing and removing, with or without cause, a State officer, he hoped such a power would never be recognized here. Mr. PORTER terminated his remarks by suggesting the provision upon the same subject in the constitution of Tennessee.

Mr. CONRAD of Orleans, said that the supreme court had virtually decided that the governor could remove from office where the tenure was limited, not by directly displacing the officer, but by appointing another in his stead, that is, he could drive out one nail with another. This he considered a most dangerous power. Mr. C. argued against the dependence of the secretary of State upon the governor. He considered it inexpedient and impolitic. The secretary of State was the custodian of the public records, and instead of being the creature of the governor, he should be a check upon that officer.

The question was taken on Mr. Claiborne's amendment as amended by Mr. Conrad, and carried in the affirmative.

Mr. PEETS offered the following substitute, viz:

"A secretary of State shall be elected by the qualified electors of the State at large, at the same time of the election for governor, and shall hold his office during the term for which the governor shall have been elected."

Mr. PORTER withdrew his proposition and accepted the proposition of Mr. Peets.

Mr. TAYLOR of Assumption, moved that the said substitute be postponed until the Convention take up the mode of appointing the members of the judiciary. Mr. TAYLOR thought that the question would then more properly come up, and that it could then be discussed once for all.

Mr. C. M. CONRAD opposed the postponement. The principle of electing the Secretary of State by the people was somewhat dissimilar from the principle of electing the judges by the people.

The question was taken upon the postponement, and it was decided in the negative.

The question then recurred on the adoption of the proposition of Mr. PEETS.

Mr. MARIGNY: I cannot conceive how it can enter into the immagination of any one to elect the secretary of state by the people. It is equivalent to throwing confusion and disorder into the administration of the executive department. What in fact is the secretary of state as regards the governor? He is the officer that comes in most direct contact with the governor, and is his counsellor and adviser. If you elect a popular man to the office of secretary of state, it may well happen that you give to the governor a powerful adversary, between whom and the chief of the State, there will be a mutual ill-will, prejudicial to the interests of the State and to the harmony which should pervade its councils; this misunderstanding will be considerably augmented by political differences between these functionaries and the hypothesis; such a result is fully warranted by the present political contests between democrats and federalists, or whigs and democrats; and others that will continue to agitate and distract the country. Why create a difficulty for the mere pleasure of creating it? Is it not much simpler that the governor should appoint the secretary of state, as he appoints all other officers with the advice and consent of the senate? An experience of thirty-two years, and I contend always that experience is the best guide, that no inconvenience, no obstacle, no schism has resulted from the full liberty given to the governor to choose that officer; whereas under the territorial government we had a striking example of the innumerable difficulties that grew out of the misunderstanding between the governor and the secretary of state. The governor at that period was Charles

Cole Clay Claiborne, and the secretary of state was Thomas Bolling Robertson. Both these men were the bosom friends of Jefferson. The first one was nominated by Mr. Jefferson, probably because he had lent his essential aid in his contest with Burr; and the second was appointed simply on account of personal friendship. But Mr. Jefferson forgot the most essential part, and that was whether these two men would agree in the close and intimate official relations in which he had placed them. It so turned out that their characters were the most dissimilar. Robertson, with whom I was on the most intimate terms of friendship, and whom I sought because the originality of his character amused me, was always, notwithstanding his great talents and moral worth, in dispute with governor Claiborne. It was sufficient that the latter had expressed an opinion or formed an idea, for the former to contradict and oppose it. The cabinet, if I may so designate the executive conferences, was fire and the sword. No one, perhaps, could better describe the secretary of state, so eccentric and original, as I could; but I forbear from relating the many anecdotes that would most fully illustrate it. He assumed to be descended from the celebrated Pocahontas—he despised wealth and detested the laws—and it was a matter of astonishment to me, with such opinions, how he could have succeeded in a political career. It frequently happens that necessity impels men to a course contrary to their wishes, and so it might well have been with him. As he was necessitated to live in society, notwithstanding his great aversion for law, he asked for and obtained the office of judge of the district court of the United States. No one was more surprised at this than I; and meeting him some days afterwards, I inquired how it was that he was enabled to conciliate his dislike with his interest? Bah, bah, replied he, I shall hear these lawyers until they have entangled their cases, and then I will decide by throwing a dollar in the air, by head or tails!

I do not know whether he ever carried into effect his singular plan; but he had talents sufficient to comprehend a suit, and too much integrity to have made a game of his duties. I tell this anecdote merely to exhibit the originality of the man. Nothing in the world, it may well be conceived, would be so unpleasant as the forced interviews between two officers who heartily detested each other, and yet who were brought into constant intercourse by these duties. I was nineteen years of age when Louisiana became an integral portion of the United States, and my experience, as well as my recollections, induce me to hope that you will not adopt the proposition of the delegate, (Mr. Peets.)

Mr. Ratliff said that as this was the first opportunity he had had to express his views upon the question of electing public officers by the people, he would avail himself of this occasion to take a stand against executive patronage. He concurred with the delegate from New Orleans, (Mr. Conrad,) that the question of electing the secretary of state, was distinct from that of electing the judges by the people. There was no necessary connexion between them. He could not give any weight to the argument assuming a necessity for the secretary of state and the governor to be bosom friends. Their duties were distinct and separate.

What were the duties assigned to the secretary of state? That he should keep a fair register and attest all official acts and proceed of the governor, and shall, when required lay the same and all papers, and minutes, and vouchers relative thereto, before either house of the general assembly, and shall perform such other duties as may be prescribed by law. The governor may consult him, or not, at his pleasure; but there is no necessity for the executive to take or follow his advice. It struck me as somewhat singular that a gentleman belonging to the political party that the gentleman from New Orleans, (Mr. Benjamin,) belongs, should be a stickler for a dependence of the secretary of state upon the governor; and it reminded me of the different view taken by the political party of which that gentleman is a conspicious member, when President Jackson removed Mr. Duane and appointed Mr. Taney in his stead, because the former was adverse to his views in relation to the removal of the deposits. That particular act of the president was treated as an abominable abuse of power.

If the secretary of state is to be made the creature, the dependant upon the executive, upon the plea of his being the confidential

adviser, why not extend the principle to the attorney general; for the attorney general is just as much the confidential adviser of the governor as the secretary of state? Examine the law carefully, and determine how the secretary of state can faithfully discharge his particular duties, if he be placed under the immediate control of the governor, and the latter should find it convenient or expedient to suppress any record or conceal the failure of performance of any particular duty. Instead of being as he ought to be, and as his functions ought to make him, independent of the mere will of the governor, and a check upon that officer, he will be a dependant, exposed to be turned out if he dare dispute the executive pleasure. I am opposed to extending executive power. I am for restraining it within its appropriate limits, and those that have denounced so much the abuse to which it is susceptible now, have the opportunity in our state government of restricting its range; an opportunity which, if they be consistent, they will not fail to improve. Why give to the legislature the preference of electing the secretary of state, in place of the people? Are not the people the true sources of all power, and if they are competent to elect the governor, why are they incompetent to elect the secretary of state? When the question of electing the judiciary comes up, I anticipate great opposition, because from the nature of the judicial functions some arguments may be given for continuing something like our present system; but it is evident that there is not that dissimilarity between the functions of governor and secretary of state that there is between the governor and members of the judiciary; and that the same arguments will not, therefore, apply with the case of the secretary of state. Where is the necessity for extending the power of the governor over the secretary of state, and making the latter the mere echo of the former—the blind and passive instrument of executive will? The abuses of executive patronage, as I have before said, has been a theme of declamation for both political parties—the meanness, sycophancy and servility of office seekers, has been held up as a national reproach; and, we have been told, that all the evils which it engenders, should be arrested. How better can we arrest them, than by laying the axe to the root of the evil. It is said that, perhaps, the secretary of state who may be elected by the people, may be of opposite political opinions from the governor? If this should happen, so far from being any objection to the system, it is an advantage, for no one can keep as sharp a look out as a political adversary; and if such an one is secretary of state to a governor of opposite political opinions, he is sure to be a most efficient check upon the executive department, if there be the slightest tendency to abuse or to stretch its powers. The governor, let him be elected by this or that party, should be the governor of the State, and not the governor of a party. I admire the response attributed to Mr. Polk, that he was the president of the people, and not the president of a party. The governor whose motives and rule of conduct are right, has nothing to fear from the juxta-position of a secretary of state who may entertain different political opinions, or who may not be his bosom friend and associate. Mr. R. concluded by hoping that the section would be adopted, and that the people would have the same privilege of electing the secretary of state as they had of electing the governor.

Mr. Leonard was not opposed to the principle of electing the secretary of state by the poople, but he thought that inasmuch as the secretary of state was by law required to keep a register of the doings and proceedings of the executive department, the governor should have the right to inspect at will these records for the purpose of seeing that they were faithfully kept; and that as the secretary of state was bound to exhibit to the legislature when called upon, these records, he should be bound to exhibit them to the governor when required so to do.

Mr. Miles Taylor said, that before the question was taken, he would beg leave to submit his views. He had not anticipated that the question would have come up today, but his opinions had long since been formed. Although he was opposed to the election of judicial officers by the people, the objections that operated upon his mind in reference to the judiciary, had no application to the election of other officers. The present office was one that he conceived might, with great propriety, be filled by the popular suffrages. He was adverse

to the appointment of the secretary of state by the governor. That officer should not be the creature of the governor, nor dependant upon him for his continuance in office. He should be independent of the executive. His duties bore but a slight relation to those of the governor. The intimate relations with the governor, attributed in this debate to the secretary of state, were held by the private secretary, rather than by the secretary of state. As he (Mr. Taylor) understood the details, the simple duty of the secretary of state as related to the executive department, was, to keep the records. The secretary of state had but few duties imposed on him by law, and some of these had never, within his knowledge, been discharged in a manner satisfactory to the public. He referred to the duties that devolved upon him as superintendent of the public schools: these duties were more important than all the others that had devolved upon him, and no secretary of state had ever discharged them as could have been desired. He recollected the promise that had been made in one of the reports upon that subject, by an incumbent of the office—a promise that had never been fulfilled, either by that incumbent, or any of his successors in office. There appeared to have been great neglect. No suggestions had been made, nor nothing accomplished in relation to our common schools. These duties were the most important assigned to that officer. The election of the secretary of state by the people, would involve a direct responsibility; his official conduct would be scrutinized, and if approved of, he would be re-elected. This would secure an effective action upon the most important duty that is assigned to him—that of superintending public education.

So far as any intimacy is concerned between the governor and the secretary of of state, it is, as an argument, of very trivial importance. The governor, if in doubt, may consult the attorney general. He is the appropriate law officer of the State. He may consult any private citizen at all times, and have the benefit of his experience and of his counsels. He may likewise ask information from all the officers of the government—the most extended sources of intelligence is before him, and there is no necessity for his having the secretary of state as an especial cabinet adviser.

Mr. Roselius said, that he could not agree with the member that had just addressed the Convention, as to the extent of the executive power. It was perfectly clear that one individual could not wield that immense power alone! Is it fair, just or proper to make the governor responsible for the acts of agents with whom he had nothing to do, and over whom he had no control? By what means and through whose agency does he exercise the executive power with which he is invested? It was through the medium—the agency of officers that were subordinate to him. These officers are numerous. First was the secretary of state, without whom the governor could scarcely perform a single act. It was that officer that countersigned every commission. It is unnecessary to refer to all the other officers through whom the executive acts. The attorney general is placed in the same category as the secretary of state. Let members but reflect upon the consequences of the doctrine that is here broached. The chief magistrate is responsible to the people for the manner in which the executive trust is administered, and is it right that he should be debarred any control over the instruments through whom he exercises the powers conferred upon him. As for making the subordinate officers of the executive department mere creatures of the will of the governor, I repudiate the idea; but I consider that this is one question, and the mode of appointment is another question. The secretary of state ought certainly to be independent of any servility to the governor, but at the same time the governor should not be placed in a servile attitude towards the secretary of state. Suppose that the secretary of state chooses to arrogate to himself, that the governor shall not examine the archieves, that he shall have no control over them, would not that be an absurd and extravagant idea, and inconsistent with the supervision which the governor is presumed not only to exercise over his own immediate department, but over every other officer of the State, to see that the laws are carried into effect? There is but one step further to go beyond the undoubted prerogatives of the governor, and that is to dispense with the office altogether. If you

take away the executive power without lodging it somewhere else, it must be merged into the two other departments—for the first section of the first article of the constitution prescribes that the powers of the government of the State shall be divided into three distinct departments. If the intention be not to abolish the office of governor or to make him a mere automaton, is it just, right and proper to devolve the responsibility upon him for the manner in which the laws are carried out, if he have no voice in the selection of proper officers to enforce those laws? What idea have gentlemen of the executive power when they advocate such notions? What is the executive power designed for, if it be not to see that the laws are faithfully executed? One branch of that duty is to enter our courts of judicature, and to see that these laws are properly administered, and that portion of the executive duty is assigned to the attorney general. Another branch is to enforce the revenue laws, although assigned to a particular officer; but all acting under the general supervision of the governor. Any other view of the subject is utopian.

As for the argument assumed by the delegate that last addressed the house, that the secretary of state is the superintendant of public schools, or as the gentleman chose to denominate it, the common schools, I confidently believe, said Mr. Roselius, that the subject of education would be consulted by the appointment of a separate officer. This portion of the duty assigned to the secretary of state is by no means incidental to the office, no more than to any other office of the State. To be properly discharged, it will take up the time and the energies of one distinct officer, with some assistants. Why, sir, in this city alone, two individuals are employed exclusively in superintending the public schools in two municipalities alone; and they are men of exalted abilities and long experience. I trust that a clause will be introduced in the constitution for the establishment of a general system of public education, which shall pervade the whole State, and that a special office will be created for the superintendence of public schools, to watch over and to direct the proper application of funds destined for the support of these schools. I do not presume that one individual would suffice to the administration of that department throughout its details, but in the carrying out of the principles, he might avail himself of the assistance of subordinates.

Mr. Mayo said, that inasmuch as reference had been made to the subject of education, he would state for the information of members, that the committee appointed upon that subject, would shortly make a report, recommending the creation of the office of superintendent general of public schools.

Mr. Culbertson: I am not in favor of the proposition of the delegate (Mr. Peets) but will vote in favor of the proviso of the member from Caddo (Mr. Porter.)

The question was taken on the proposition of Mr. Peets, and the yeas and nays were called for.

Messrs. Brent, Brumfield, Carriere, Covillion, Downs, Garrett, Humble, McCallop, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Taylor of Assumption, Trist, Waddill, and Wederstrandt—26 yeas; and

Messrs. Benjamin, Boudousquie, Bourg, Cenas, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Grymes, Hudspeth, Hynson, King, Labauve, Legendre, Leonard, Marigny, Mazureau, Prescott of St Landry, Preston, Roman, Roselius, St Amand, Sellers, Taylor of St Landry, Voorhies, Wadsworth, Wikoff, and Winchester—30 nays; consequently the substitute was lost.

Mr. Porter then submitted the following substitute, for the whole section, viz:

"A secretary of state shall be appointed by joint vote of the general assembly, and commissioned during the term of four years; he shall keep a register of all the official acts and proceedings of the governor, and shall when required lay the same and papers, minutes and official vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined by law."

Mr. Miles Taylor said that this was the worst mode of appointment that could be devised. It never could receive his sanction. The people were, in the mass, free from corruption. The legislative body was small, and there was some reason to appre-

hend that there might be trick and management. He went heart in hand for the election by the people, but he would not assign it to the legislature. He infinitely preferred the responsibility devolving upon the chief magistrate, to make a suitable appointment.

Mr. Wadsworth conceived that the gentleman (Mr. Taylor) had placed his objection upon improper grounds. His remarks cast an unfair reflection. If I were disposed to sustain the section, I would vote for an amendment to it, that no member of the legislature should be eligible to the office of secretary of state. But to suppose that the legislature are corrupt, and would be influenced by trick and management, was casting a reflection, not only undeserved, but out of place. I do not see any reason why the power to elect that officer should not reside as well in the legislature as in the people. The legislature represented the will of the people; its members were honorable and high minded men, selected for their intelligence and integrity, by their fellow-citizens.

I do not see the necessity suggested by the member from New Orleans, for a separateofficer to superintend the public schools; but if such were necessary, I think it would be much better to appropriate $2500 for that officer than to continue to appropriate it to the inspector and adjutant general, whose duties might well enough be dispensed with. We would do much better to have an officer to inspect the children throughout the State, and to see that they were properly educated. The secretary of state was as proper an officer to do that duty as any one else. The office at present was a sinecure, and the incumbent would no doubt be as competent to the discharge of the duties under the appointment of the legislature, as he would be under the appointment of the governor.

Mr. Downs said he was in favor of electing the secretary of state by the people, without intending to cast any reflections on the legislature, which, if he did, would be casting a reflection on himself as a member of that body. It was seven years since he entered the legislature, and he concurred with the delegate from Lafourche, that the elections by the legislature were the most uncertain and least satisfactory of all the other modes. It was infinitely better that the executive or the people should appoint. The people would do right, and the executive was held to a strict accountability. But where the appointment was divided among one hundred men, it was considerably lessened, and no one felt, perhaps, the proper weight of his single ballot. He would therefore vote against the proposition, because he conceived it to be inexpedient.

Mr. Taylor said that the gentleman from Plaquemines had misunderstood him. He intended to say that a large body like the people, were not susceptible of corruption; whereas, in a small constituency, as the legislature, a bad selection was more likely to be made.

Mr. Ratliff concurred in opinion with the delegate from Ouachita, (Mr. Downs) that, for local offices, the legislature were not the proper source of appointments; but for officers whose functions embraced the whole state, he thought the legislature well fitted to make these selections, and in support of that opinion, he referred to the experience we have had in that peculiar mode of appointment for the state treasurer. No State in the Union had invariably possessed the same quantity of talent and integrity that were so conspicuous in every individual that has held that office in Louisiana, since the formation of the old constitution.

Mr. Porter said he would offer one or two words in support of the proposition submitted by him. The subject had occupied much of his attention, and he was convinced that there was nothing obnoxious in the legislature selecting the secretary of state. In the State of New York, the principal officers, such as the attorney general, the surveyor general, &c. &c., were elected by the legislature. Fifteen States in the Union elected their secretary of state in that way, and there were but three States where the appointment was made by the governor, viz: Louisiana, Kentucky and Delaware.

The yeas and nays being called for on the adoption of said substitute, resulted as follows:

Messrs. Culbertson, McCallop, Peets, Porter, Ratliff and Waddill voted in favor of said substitute; and

Messrs. Boudousquié, Bourg, Brent, Briant, Brumfield, Carriere, Cénas, Conrad of New Orleans, Covillion, Derbes, Downs,

Dunn, Eustis, Garrett, Grymes, Hudspeth, Humble, Hynson, King, Labauve, Legendre, Leonard, Marigny, Mayo, Mazureau, O'Bryan, Penn, Porche, Prescott of Avoyelles, Prescott of St.Landry, Preston, Prudhomme, Read, Roman, Roselius, St.Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Wederstrandt, Wikoff and Winchester voted against the adoption of said substitute—49 nays; the same was lost.

Mr. Roman moved to amend said section, by inserting after the word "shall" the words "be nominated and appointed by the governor with the advice and consent of the senate," which amendment was adopted.

On motion, the section as amended was adopted, viz:

Sec. 12. A secretary of state shall be nominated and appointed by the governor, with the advice and consent of the senate, and commissioned to hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts of the governor, and when necessary, shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

Whereupon the Convention adjourned.

Tuesday, February 25, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. Stanton.

Mr. Mayo said this was the day fixed on for a reconsideration of the 3d section of the executive department. But seeing such a thin house he moved the same be laid over until Tuesday next; which was agreed to.

Mr. Saunders gave notice that on some future day, when this house is full, he will move for a reconsideration of the vote given yesterday on the subject of making the secretary of state an elective office by the people. There are in this Convention, Mr. President, two parties of those who call themselves democrats: the one in favor of making all offices elective by the people, the other who seem disposed to retain the appointing power as now practised.

Mr. Saunders was of opinion that the middle path was the better one, and among those offices which he considered ought to be left to the choice of the people is that of secretary of state. It is one of the most important offices in the State, and he thinks that, the people would be pretty sure to make a wiser and better selection than either the members of the legislature or the governor.

Mr. Scott of Baton Rouge sent up to the president the report made in 1844 by the secretary of state, on public education, and moved that it be printed for the use of the committee (appointed by this Convention) on education. The motion was adopted.

Mr. Eustis submitted a report from the committee of revisal on the 2d section of article 1. It read as follows:

"Article 1st, as reported by the committee of revisal, section 2d. No one of these departments, nor any person holding office in any one of them shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted."

Mr. Eustis remarked that it was presented in a different form, and hoped it would be approved; but should the Convention see fit not to adopt, it would only remain for the committee to try it again.

Mr. Downs moved that it be printed for the use of the Convention. Agreed to.

Special Order of the Day.—Mr. O'Bryan's resolution offered yesterday now came up for consideration. It reads thus:

"*Resolved*, That from and after the 15th day of March next, the Convention will grant no leave of absence to any member, except in case of sickness of the member or some one of his family."

Mr. Beatty moved to strike out 15th March, and insert 25th February, which was agreed to.

Mr. Ratliff hoped the Convention would reject the resolution. It is a well known fact that there are here, thirty-one members against their will. He (Mr. Ratliff) does not wish to draw any invidious comparisons between city and country members. The city members could easily

attend the sittings of this body, and attend to their own affairs also during the recess, without inconvenience, but they must not suppose that country members had nothing to do in their own affairs. They protested against being obliged to hold their sittings in New Orleans; they desired to remain at Jackson. It would therefore be very hard if they were compelled to remain here all the time, without the privilege, if their affairs required it, of getting leave of absence for a few days at a time. Nobody pretends to say that country members have abused this privilege; that is not pretended. By what right do you attempt to exercise such a high-handed movement? Do you find any authority for it, either in the national or State constitution? But suppose we pass the resolution, what effect can it have on those thirty-one members who are here protesting against your right to bring them here? Would it be right, were they absent for a few days at a time without leave, which this resolution says shall not be granted, to have them held up to the gaze of the world as derelictive of their duty? No, sir, such injustice cannot prevail. We have no right to deprive any member of his *per diem*, if this motion shall prevail; and I have no hesitation in saying that I would never refuse, as chairman of the committee on contingent expenses, to sign the warrants of the members you seek to ostracise. He (Mr. Ratliff) is sorry to find some of the members disposed to be so arbitrary. But, sir, I warn this house in time, they may remove me from the committee if they will, but so long as I am chairman of the committee on contingents I shall, with the statutes in my hand, totally disregard what I conceive so illegal a measure.

Mr. Beatty moved the adoption of the resolution. It is very clear that every body gets leave of absence whenever he asks for it, and if Mr. Ratliff has the right to act as he pleases on the decision of the Convention, why then every body has the same right. Mr. Beatty thinks no member is entitled to his *per diem*, who does not attend to the duties of the office; and moreover, he does not hesitate one moment to say that he would instantly ask the president of any committee to be dismissed from said committee, who should disregard the expressed will of the Convention. The question is, have we the power to pass this resolution? Clearly. Then those who resist its will must take the consequences.

Once passed, we shall hear no more of the pecuniary wrong we are inflicting on members. We shall find that members will prefer remaining at their posts to losing their salaries. Experience has shown that we can't get along as we have been acting; we are frequently kept waiting for the want of a quorum, and the house is scarcely ever with more than two-thirds of its members. But once stop the $4 a day, and we shall soon see a change. He (Mr. Beatty) has business in the country himself, but he is never absent when the roll is called. Why can't other members do as he does, get some one else to attend to it in his absence.

He (Mr. Beatty) sees no force in Mr. Ratliff's allusion to his and thirty others being in New Orleans instead of Jackson, against their will. He (Mr. Beatty) voted in Jackson to adjourn to New Orleans, but that is no reason why a change of location for our sittings should effect a question of right. He further presses the adoption of the resolution.

Mr. Conrad will vote against the resolution, because he cannot possibly imagine that it will be productive of any good. The discussion of the resolution has already cost as much as it would cost to discuss an important measure. The loss of their *per diem* is not at all likely to keep those at their posts who have no nobler feelings to animate them. Besides, it is not at all likely that any member of the body absents himself for the mere pleasure of it, and we are therefore bound to conclude that nothing but urgent necessity could induce him to absent himself. At any rate, the evil cannot be remedied by the proposed resolution, and he shall oppose it.

Mr. Downs takes the same view of the matter as Mr. Beatty, and therefore will vote for the resolution. The absence of members has become a serious inconvenience, and there cannot be a doubt but that on many important questions we do not get the popular vote. He does not pretend to deny that gentlemen may have good and weighty reasons for absenting themselves; reasons they are compelled to regard, and therefore he cannot undertake to find fault with that which he might be compelled to do himself, but then he desires every one

who does so, to take the responsibility of going from necessity or from choice. There are now twelve members, he believes, absent on leave. The Convention render themselves thereby responsible for such absence; this he wants corrected. Let them go without the consent of this body, and then the responsibility rests on their own shoulders.

It is a bad habit which we have copied from the legislature, of which we ought to break ourselves. It is not the practice in any other State; and in Congress such a thing is unknown. A well informed gentleman the other day remarked to him (Mr. Downs) that it was then a matter of great surprise to find so much of the proceedings of the legislature filled up with discussions on leaves of absence. He (Mr. Downs) will then be glad to see the resolution pass, but should it fail, he will feel it his duty to call for the yeas and nays on every question of leave of absence, so that the responsibility may fall where it belongs.

Mr. W. B. Scott did not think any allusion to the proceedings in Congress was pertinent to the question now before this Convention, because it was a notorious fact that there was no legislative body in the country where more time was frittered away than there; and, said Mr. Scott, I know of several cases in this Convention where a temporary absence is absolutely indispensable; and believing as I do, that no member of this body will absent himself without some strong reason for doing so, I shall oppose the resolution.

Mr. Downs replied that he did not desire to cast censure on any one, and all he asked, without enquiring into the motives which compelled members to absent themselves, was that *they* should take the responsibility.

Mr. Taylor is of opinion that the resolution as it stands, will be perfectly useless. He says there are one-tenth of the members who answer to their names and then are very seldom seen afterwards in the hall; one goes about his business here, another there, and unless we call them strictly to account this resolution will not do any good.

The question was then put on Mr. O'Bryan's resolution, amended by Mr. Beatty, and resulted as follows:

Yeas—Messrs. Beatty, Benjamin, Brent, Brumfield, Carriere, Chambliss, Claiborne, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Legendre, Marigny, Mazureau, O'Bryan, Peets, Porche, Porter, Prudhomme, Roman, Roselius, Saunders, Sellers, Trist, Voorhies and Wederstrandt—28.

Nays—Messrs. Bourg, Briant, Burton, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Hudspeth, Kenner, King, Labauve, Leonard, McCallop, McRae, Mayo, Penn, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wikoff and Winder—31. So the resolution was lost.

The Convention then proceeded to the order of the day.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

Constitution of 1812, section 9. He shall nominate and appoint, with the advice and consent of the senate, judges, sheriffs, and all other officers whose offices are established by this constitution, and whose appointments are not herein otherwise provided for: *Provided*, however, that the legislature shall have a right to prescribe the mode of appointment to all offices to be established by law.

Mr. Humble moved to amend the section by striking out the words "judges, sheriffs, and others."

Mr. Dunn moved a division of the question, and the vote be first taken on striking out the word "judges."

Mr. Penn called for the yeas and nays, but gave way to

Mr. Downs, who remarked that although he would most probably vote for striking out the word "judges" from the section, he was not prepared to say he should go for that measure, when we were further progressed with the constitution, and came to discuss the judiciary system. He was rather disposed to believe that the time for so great a change as contemplated—an elective judiciary—has not yet arrived, and that it will not work well now. At some future period the change may be productive of good. At any rate he shall reserve his final action on the matter, till he hears the question discussed on both sides.

Mr. Marigny is determinedly opposed to any change in the section, which it will

be observed is the section verbatim of the one in the constitution of 1812. That section gives the power to the governor of nominating judges, by and with the advice and consent of the senate; and therefore it is a power that behooves us to study, whether properly given or not; and it is a question we ought not to run headlong against in the heat of our feelings.

In the first place we should consider well what we have already done to increase popular rights. We have established universal suffrage; and we have removed the property qualification, (heretofore considered a disability unless possessed by the citizen,) as a requisite for eligibility to the office of governor. Of this augmentation to popular rights and privileges, he, (Mr. Marigny,) does not complain; on the contrary, he thinks we have acted wisely for the benefit of the people as a whole, and in accordance with the liberal spirit of the age. But in approaching the judiciary, he thinks we ought to take into consideration that we are approaching an interest which should claim our serious attention; actuated, as we doubtless all are, by a spirit of justice, and with a determination to deprive no one of his just rights, we cannot forget that it is our duty to protect every citizen in all his just rights and his property, is a vital and important principle. The tranquility of the State materially depends upon our action on this subject; and we cannot do better, nor can we show more wisdom, in any of the deliberations of this Convention, on this question. The more guarantees you offer, and the more safeguards you throw around the judiciary department to make it completely independent of the popular will, (or caprice if you will,) the more you will show that you are actuated by a wise and honorable spirit. What becomes of the independence of a judge, where his election depends on popular will? Suppose you were now to say that the judges of the supreme court should be elected by the people. Is it not too probable that some favorite political partizan would be raised to the office, in lieu of a man of great legal attainments and moral worth? And then, what is the consequence? Why, instead of having on the bench a man who feels the sanctity of his oath, and is properly impressed with feelings of duty, as would be the case were he nominated by the governor and confirmed by the senate, who are always the conservative body, that protects the rights of the minority, and who feel their responsibility. We should have a man on that hitherto dignified bench, who would suffer his judgment to be scourged by his politics, and the passing popular feeling of the hour. Let us follow up the question, and ask what would be the result of having a district judge elected by the people? He decided all civil and criminal matters—and will it not be dangerous to the rights of a community, if the election of district judges, is left to the will of a majority of the people; a judge who has the destiny in his hand over the liberty, even the life of an individual, who it might happen would be a very popular man, and however guilty, may, nevertheless, by his popularity place the judge in a position of awful responsibility. I am sure you will see at once the position a judge may thus be placed in—between a conscientious discharge of his duty and his desire to lean to the side of friendship and spare the feelings of the numerous friends of the offender to the law. Let us then preserve the bench, independent of such influences, or justice will take her departure from amongst us.

It is a matter well known to you all, that no man but of the highest respectability and character, and one who is well known to the executive, has ever yet been nominated to the office of parish judge, and that he is afterwards looked up to as a kind of father in his parish.

Well, change their position, take away from them their independence, and what follows? Make them dependent on the voices of the people, and the result, it takes no prophet to foretell; they will daily be thrown in contact with wily lawyers, who are alone seeking popularity themselves, and will so pervert the decisions of a judge, if he decides against them, as to render the judge unpopular to his clients and their friends; and thus he, the judge, will be compelled to give an unjust decision or lose his place.

He (Mr. Marigny) makes these remarks in no invidious sense to either lawyers or politicians. His only object is to show the ordinary feelings which operate on the human heart, and thereby to convince the

Convention of the truth of the position he advances.

We are told that the office of parish judge can, with benefit to the State, be abolished, and merged into the office of district judge. He thinks this would tend to injurious consequences. From the Balize to the uppermost parts of the State, men can be found sufficiently skilled to perform the simple duties of a parish judge, who would be totally incapable of performing those of a district judge.

On the subject of sheriffs, I have a few words to say, said Mr. Marigny. What is their duty? One of their duties is, to become conservator of the public money; and to whom, if not appointed by the governor, are they accountable? Would it be their duty to account to the people? It would really be droll to see how they would go about it. A popular sheriff might readily pocket a portion of the public money, and if he only had the talent of keeping in with his supporters and friends, by the means of some snug parties, &c., he would be re-elected sheriff despite his defalcation.

The more he (Mr. Marigny) reflects on this subject, the more he has become convinced that it would be truly the greatest misfortune that could possibly befall Louisiana, if she were to establish an elective judiciary. Those who feel disposed to question his democratic principles and call him a federalist, or any other name they please, may do so; but he unhesitatingly says, that he will never give his consent to such an abuse of power, as we are called upon to consummate.

He would be glad that, while we fixed the judiciary department on a firm and independent footing, some limitation should be made as to the tenure of office; and also that speedier means may be found to bring a delinquent magistrate or judge to account, without having to go through the tedious and difficult process of impeachment. And when the question comes up, in discussing the judiciary department, he will make some suggestions on those subjects. In the mean time, he hopes Mr. Humble's motion will not prevail.

Mr. Brent said he should vote for the amendment of the gentleman from Ouachita, (Mr. Humble) for two reasons; the first was, because he was opposed to giving the executive any power whatever over the judiciary; and second, because this was not the moment nor the proper time to discuss in what form or manner judges should be appointed or chosen. The striking out, as proposed by Mr. Humble, does not, in his opinion, touch that question. It is simply to define the powers of the governor over the constitutional officers of the State, and he hopes the questions will not now be confounded.

The question was then put on the amendment offered by Mr. Humble, and amended by Mr. Dunn, to strike out the word "judges," and resulted as follows, viz:

Messrs. Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, Ledoux, Leonard, Mc-Callop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, W. B. Prescott, W. M. Prescott, Ratliff, Read, Saunders, W. B. Scott, Stephens, Trist, Taylor of Assumption, Waddill and Wederstrandt—30 yeas.

Messrs. Bourg, Briant, Cénas, Claiborne, C. M. Conrad, F. B. Conrad, Culbertson, Derbes, Dunn, Eustis, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Prudhomme, Roman, Roselius, St. Amand, T. W. Scott, Sellers, R. Taylor, Voorhies, Wikoff and Winder—28 nays.

So the question being carried, the word "judges" was stricken out. Messrs. Miles Taylor and W. M. Prescott, while the vote was being taken, declared themselves unfavorable to an elective judiciary.

The question was then put on striking out the word "sheriffs," and resulted as follows:

Messrs. Bourg, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, C. M. Conrad, Covillion, Culbertson, Derbes, Downs, Dunn, Garrett, Humble, Hynson, Kenner, Ledoux, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, W. B. Prescott, W. M. Prescott, Prudhomme, Ratliff, Read, W. B. Scott, T. W. Scott, Sellers, Stephens, M. Taylor, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—43 yeas.

Messrs. Cénas, Claiborne, F. B. Conrad, Eustis, Hudspeth, King, Labauve, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand and Taylor—14 nays.

So the word "sheriffs was stricken out of the section.

Mr. Conrad moved to strike out the

word "of" in the 56th line, and insert the word "to."

Mr. Taylor moved to amend, by striking out from the 54th line, the words "provided however that," and to insert at the end of the 57th line "provided they shall not be elected by the general assembly, or by either of the two houses."

Mr. Conrad moved to amend the amendment of Mr. Taylor, by striking out the word "they" after the word "provided," and insert the words "the said officers," which amendment was accepted by Mr. Taylor; but

Mr. Porter moved to lay the original provision and all the amendments on the table, which motion was seconded by Mr. Kenner.

Mr. Taylor insisted on his amendment. He thought it would be impossible to perfect the constitution, without giving the legislature some power to fill those offices which are not and could not be inserted in that instrument; such, for instance, as bank directors, and many others; which, nevertheless, it is just as necessary to vest the power somewhere, to fill. At the same time, while giving them the power to create the offices, he thought it but right to prevent them from having the power of selecting those who should fill them, believing that power properly belonged to the executive.

Mr. Conrad thinks that even if Mr. Taylor's amendment be rejected, that the original proviso is correct and necessary—otherwise we shall arrive at the very point we are so desirous of avoiding, viz: that offices of a purely local character, should not devolve upon the governor, and since he has reflected on the subject he will vote against Mr. Taylor's amendment.

Mr. Porter insists, that the proviso contended for by Mr. Conrad, is in the power of ordinary legislation, and if the principle contended for prevail, the offices taken away from the control of the people necessarily fall back upon the nominating power of the governor; and he (Mr. P.) is totally opposed to this one man power.

Mr. Taylor could not see the application of the gentleman's remarks to the question before us; because the section as it stands, gives the power to the governor to appoint all the officers under the constitution—that is, the governor and senate. And suppose the legislature were to create new offices under their constitutional power to do so—why, unless such cases are specially provided for, it is clear the governor has the power of appointing all such officers. He cannot therefore see where his proviso clashes with any general principle.

The question was then put on Mr. Porter's motion to lay the whole matter with the amendments, on the table, and lost.

The question then recurred on Mr. Taylor's amendment. Before however it was put, Mr. Read sent up a substitute for Mr. Taylor's amendment to the following effect: "That all officers created by the legislature, shall be elected by the people."

Mr. Saunders, temporarily in the chair, decided that Mr. Read's substitute was not in order.

The question then recurred on Mr. Taylor's amendment, which on being put it was lost.

Mr. Read again offered his substitute as an amendment, but after a few moments reflection, withdrew it.

The section as amended was then adopted as follows:

Sec. 9. Constitution 1812. "He shall nominate and appoint, with the advice and consent of the senate, all officers, whose offices are established by this constitution, and whose appointments are not otherwise provided for; provided, however, the legislature shall have the right to prescribe the mode of appointment to all other offices to be established by law."

Sec. 10, of the constitution of 1812, was then taken up and adopted, viz:

Sec. 10. "The governor shall have the power to fill up vacancies that may happen during the recess of the legislature, by granting commissions, which shall expire at the end of the next session."

The Convention then took up section 12, of the constitution of 1812, viz:

Sec. 12. "He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices."

After which, the 13th section of constitution 1812 was adopted, viz:

Sec. 13. "He shall from time to time give the general assembly information respecting the situation of the State, and re-

commend to their consideration such measures as he may deem expedient."

The 14th section, constitution of 1812, was then read by the secretary, viz:

Sec. 14. "He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place if that should become dangerous from an enemy, or from contagious disorders; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months."

Mr. Porter moved to amend by inserting after the word "assembly," in the second line, the words "or continue their sessions for a period not exceeding thirty days." He enforced his amendment by this remark, that it would be productive of of great expense to call the legislature together after a period of four months, when the business might be accomplished at once with a comparatively trifling expense.

The question being put on Mr. Porter's amendment, it was lost, and then the section was adopted.

Sec. 15, constitution of 1812, was then adopted as follows:

"He shall take care that the laws be faithfully executed."

The next section called up was section 20, constitution of 1812, and is as follows:

Sec. 20. "Every bill which shall have passed both houses, shall be presented to the governor; if he approve, he shall sign it; if not, he shall return it with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journal, and proceed to reconsider it; if after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted,) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall become a law, unless sent back within three days after their next sitting."

Mr. Mayo moved to amend the section by striking out "two-thirds" in the 9th line, and inserting the words "a majority." He thinks in making the amendment he is right, for, after a bill has been returned to the legislature with the reasons assigned by the governor for his veto, he thinks it would take a very large majority in the first instance to carry it over his head. He does not think the legislature would be hasty, but would weigh well the objections of the governor, before they concluded to adopt it in such a case.

Mr. Downs is constrained by a sense of duty to oppose this amendment; and his experience in the subject, makes him unwillingly trespass on the house for a few minutes. Up to this time he has yet to learn that the veto power has ever brought on the country, either in the general government or in this State any disastrous results. True it is when the executive interposes the veto power, great dissatisfaction, and sometimes popular indignation follows it, but when people get calmed down, and begin to reflect on it—the exercise of that privilege has most generally been found to have resulted beneficially to the real interests of the people. He will only cite one case, which came under his own observation. The governor saw fit to veto a bill passed by the general assembly, which however, they passed over his head, by the constitutional majority, but it was not long before they found out their error. He admits that he himself was amongst them in error. This veto of the governor was the first check on the wild spirit of internal improvements, and happy for the State would it have been had it been sustained. We should have saved $500,000, together with all the interest which has been paid on it ever since.

It is not argued, I presume, said Mr. Downs, that the executive should lend too attentive an ear to any local measure, and thereby interest his feelings in its success; and how often do we see these local matters and feelings absorb legislative action.

The veto power, if to be sustained at all, should be kept, just as it is; it is the

greatest check that can possibly be put on partial or hasty systems of legislation; and these systems have already cost us too much in our prodigal course of expenditure.

He, Mr. D. would add more on this subject did he conceive it necessary; but he feels so confident that a very large majority of this Convention agree with him in opinion, that he will no longer trespass on their time.

Mr. CONRAD moved to lay Mr. Mayo's amendment indefinitely on the table.

Mr. MAYO then withdrew the amendment he had offered, remarking at the same time, he did not expect it would excite so much debate. But, he desired now to renew his motion in another form, and therefore moved to insert three-fifths in lieu of a majority, heretofore proposed by him. Surely, said he, in exacting two-thirds of all the members elected, they ask more than is ordinarily in attendance in the two bodies.

Mr. TAYLOR, in answer to this new proposition, stated a fact that had come under his observation, and tends to show the propriety and wisdom of the remarks of Mr. Downs, in regard to the veto power. It was this: an act was passed, authorizing and directing the emission of State bonds, to the amount of five millions of dollars, for the benefit of a certain banking establishment in this city—but the governor returned it, with his objections. Notwithstanding the veto of the governor, it lacked but one vote of becoming a law; and had the required number been only three-fifths, it would have become a law, and we should have been involved in five millions more of State debts than we now are.

The question was then put on laying Mr. Mayo's amendment on the table indefinitely and carried.

Mr. MAYO then proposed another amendment, which was to strike out the words "unless sent back within three days after their next meeting," and insert in lieu thereof, "in which case it shall not be a law;" for the case might happen, that if not sent back precisely within three days, it might be considered as overlooked, and thereby certain supercheries of the governor's would reap the benefit.

Mr. ROSELIUS regrets to hear any gentleman on this floor advance an idea so derogatory to the character of a chief magistrate, whom at least we should not think capable of turning traitor to the interests of the State without some strong reasons.

Mr. CONRAD thinks the text in the federal constitution is precisely similar to that in the sections before us, and he has never yet heard of any abuses under it.

Mr. MAYO feels confident that it is not the text, and in support of his position he read from the constitution of the United States: "in such case it shall not be a law."

Mr. TAYLOR agrees as to that provision, but experience has shewn that it was a bad one. It has happened that a bill has been defeated by being withheld. This provision for which we are contending, is to guard against such an abuse of power, and to protect the rights of the people; that is, if the legislature adjourn before the constitutional term.

The amendment was then rejected, and the section was adopted.

The Convention then took up section 21, of constitution 1812. It reads thus:

"Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor; and before it shall take effect, be approved by him; or being disapproved, shall be re-passed by two-thirds of both houses." Which was adopted.

The Convention also adopted section 22d, of constitution of 1812, viz:

"The free white men of this State shall be armed and disciplined for its defence; but those who belong to religious societies, whose tenets forbid them to carry arms, shall not be compelled to do so, but shall pay an equivalent for personal services."

The Convention also adopted section 23d, of constitution of 1812:

"The militia of this State shall be organized in such manner as may be hereafter deemed most expedient by the legislature."

Mr. CONRAD moved a reconsideration of the 10th section. He remarked, that the provision contemplated in the section was made when we had annual sessions of the legislature. The consequence might be, that if we suffered the phraseology to remain in the section as it is, that the governor would have the power of filling all the vacancies for the period of two years, instead of one, if the office was vacated im-

mediately after the adjournment of the legislature; because, under the constitution he would have no right to call them together more than once in two years. He therefore moved to strike out the word "legislature" and insert "senate." Reconsideration agreed to.

Mr. Downs suggested another amendment, which was accepted by Mr. Conrad, and which was in these words, "unless otherwise provided for in this constitution."

Both amendments were then agreed to, and the section as re-amended, was adopted; it now reads thus:

"Sec. 10. Constitution of 1812. The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution."

Mr. Ledoux desired to present to the consideration of the Convention, a portion of the minority report made by him on this article of the constitution, when he was at Jackson. It is as follows:

"There shall be appointed by the governor, with the advice and consent of the senate, an auditor of state, whose duty it shall be to examine and approve all accounts before they are paid by the treasurer. He shall assist the legislature in examining the accounts of the treasurer, and perform all other duties which may be required of him by law."

Mr. Ledoux stated that his reasons for presenting this section, were principally, that it would place a more effectual safeguard in protecting the fiscal branch of the government, by far the most important among them, and the one requiring the greatest care. It is more especially to do this, by special appointment, since the legislature is only to meet hereafter every two years. But, said Mr. Ledoux, this is no new question. The office of state auditor is common to most all of the States, at least within his knowledge, and although in the other States that office is appointed by the legislature, still he (Mr. Ledoux) thinks it would be better to make him an officer under the constitution.

Mr. Wadsworth is opposed to the section, because he sees no use whatever in making an office under the constitution which properly belongs to the legislature to make; and under such circumstances, he will oppose the section.

Mr. Claiborne is opposed to it. He does not object to the principle proposed in the section, because he admits it as a wise and salutary provision; the only reason he objects to it is, that he does not desire to multiply offices in the constitution, when the legislature can much better make laws required to carry out such basis as we lay down constitutionally for their government. He (Mr. Claiborne) conceives that the office is a simple one, he only having to audit the accounts of the state treasurer; and it is a fact well established that that officer cannot, without making himself personally responsible, distribute a dollar except under the authority of law, and without proper vouchers to warrant his doing so under the mandates of the laws.

Mr. Roman remarked, that the section now offered to the Convention, was proposed in the committee at Jackson. It was not then entertained by the committee, and he hopes it will not be by the Convention now assembled. The reasons that induce me, (said Mr. Roman) to hope it will not now find favor, are—first, because, in my opinion, it will be placing the public purse in the hands of or at the control of the governor; and the second is, that it will place the treasurer of the state under surveillance and as the creature of the governor. He (Mr. Roman) thinks such a course is uncalled for on the part of the Convention. We have placed guards sufficient around the constitution on this question, and with that we should be satisfied.

Mr. Downs thinks that with all due difference to the opinions of the member from St. James, that such an officer as is called for in the section proposed by the delegate from Point Coupée, is, or will be, much needed. The only question for us to consider, is, shall we make him an officer recognized by the constitution, in other words, an officer under the constitution, or not? For my part, sir, I can safely say that I am not alone in the opinion, that an auditor, to supervise and audit the claims against the State, is one that is much required.

We have heretofore, sir, as now, been peculiarly fortunate in our state treasurers, and their duties have been performed with singular fidelity and ability. To all those

gentlemen it affords me much pleasure to render the just dues to which they are so much entitled; but, Mr. President, the duties of the treasurer are largely on the increase, and they will be more and more so when the fiscal affairs of the State become, (as they are bound to do,) more complicated and difficult to manage. The duties required to be performed in the treasury department of this State are incompatible, the one, with the other. First: He is a receiver and collector. Second: His duty is faithfully to keep, and disburse the public money. Third: His duty is to audit the accounts; the most difficult, and important, of all the duties imposed upon him.

The law, it is true, lays down now, the measure of his duty—it says what is to be paid, and what should not be paid. But the law should have gone further; and in the absence of sheriffs, and courts of justice, it should have invested special powers of law in an auditor and protected him in the discharge of his duties in guarding the state treasury as an officer appointed for that purpose: and it should be made his duty to see that every subordinate officer, accountable to the treasury department, promptly rendered an account of his charge. And he (Mr. Downs) cannot but believe, with all the good management, and care, and assiduity, now bestowed by the state treasurer in the duties of his office—that for the want of such an officer as now is asked for, much money is lost.

In the treasury of the United States they have an auditor, treasurer, district attorney, and besides all that they have an officer appointed whose special business it is, to watch steadily, and see that all the revenue laws are strictly enforced. Whether it be the legislature, the proper body to bring this reformation, or whether it rests with us, is the only matter of question. He (Mr. Downs) thinks the offices connected with the state treasury should be divided. They have done so, in other states, without increasing the expenses of the office—and even were it to cost more, the increased revenue from a watchful care over it, would more than make the increased expense, one hundred-fold to the benefit of the State.

In every view then of the case, he cannot but favor the section proposed by the delegate from Point Coupeé, Mr. Ledoux.

Mr. Roman agrees with Mr. Downs, in some of his remarks. He (Mr. Downs) says the question is, shall we do the requisite business to carry out the views of the member from Point Coupeé or shall the legislature do it? That is the question. He (Mr. Roman) thinks the Governor should not do it—for the reasons he has advanced—and therefore thinks we had better discuss the subject when we come to treat of the office of state treasurer.

Mr. Conrad agrees most cordially with Mr. Roman that the time to discuss this question is, when we reach that portion of our work regulating the duties of state treasurer. And with that view he moved to lay the section proposed by Mr. Ledoux on the table, subject to call—which motion was put and carried.

Mr. Downs moved to take up the report of the committee on apportionment:

But the Convention on motion of Mr. W. B. Scott adjourned till to-morrow at 11 o'clock.

Wednesday, February 26, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings by prayer.

On motion, Mr. Covillion was excused from attendance on account of illness.

ORDER OF THE DAY.

ARTICLE SECOND OF THE MAJORITY REPORT AS AMENDED.

Sec. 6. Representation shall be equal and uniform in this State, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

The Parish of	Plaquemines,		1
"	St. Bernard,		1
"	Orleans,		
	First Municipality,	5	
	Second "	4	12
	Third "	3	
That part of the parish of Orleans on the East bank of the river Mississippi,			1
The Parish of	Jefferson,		2
"	St. Charles,		1

The Parish of	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	1
"	Assumption,	2
"	Lafourche Interior,	3
"	Terrebonne,	1
"	Iberville,	1
"	West Baton Rouge,	1
"	East " "	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	1
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	2
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	72

As soon as may be, after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned, according to the principles of this section, so as not to be less than seventy nor more than one hundred; and whenever a new parish shall be created, a separate representation shall at the same time be provided for it, which shall continue until the next decimal apportionment.

Mr. Saunders, chairman of the committee to whom was referred the said section, submitted the following report, as a substitute for the same, viz:

Sec. 6. Each parish shall be entitled to representation in proportion to its population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States; *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives.

Sec. 7. No new parish shall be created with an extent of territory less than four hundred square miles, nor with a population less than the full representative number required at the time of its creation, to entitle it to a representative; nor shall any parish be so divided as to leave it with a smaller area or population than is above expressed.

Sec. 8. In the year 1846, and every tenth year thereafter, a census shall be made of the population of this State, in such a manner as shall be prescribed by law, for the purpose of ascertaining the number of the federal population in each parish.

Sec. 9. At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the federal population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor; and any parish having a federal population less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment directed by this article shall have been made.

Sec. 10. The first representation under this constitution (ascertained as near as may be in accordance with the above principles,) shall continue until the first apportionment be made by the legislature, and shall be as follows, viz:

The parish of	Plaquemines,	1
"	St. Bernard,	1

The Parish of Orleans,		
	First Municipality, 6	
	Second " 4	14
	Third " 4	
	Right Bank,	1
"	Jefferson,	2
"	St Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption	2
"	Lafourche Interior,	2
"	Terrebonne,	1
"	Iberville,	1
"	West Baton Rouge,	2
"	East " "	1
"	West Feliciana,	2
"	East "	2
"	St. Helena,	2
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcasieu,	1
"	Avoyelles,	1
"	Rapides,	3
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	76

Mr. MARIGNY said the consideration of the report of the committee would give rise to great debate—there were twenty-five members not in their seats, and he would therefore propose that the subject be postponed until Monday next.

Mr. SAUNDERS was opposed to this postponement. There was no probability that the house would be fuller on Monday than it was now. The subject was surrounded by difficulties, but nothing was to be gained by putting it off. He hoped the house would not adopt the suggestion to postpone, but would proceed at once to a consideration of the report.

Mr. MARIGNY said his object was to preclude another discussion. If the subject were discussed now, it would be discussed *de novo* when there was a fuller house.

Mr. CHAS. M. CONRAD: the gentleman's remarks might apply to the propriety of fixing a day for taking the vote, but I can see no necessity for suspending the discussion.

Mr. MARIGNY moved that the whole matter be laid on the table, and made the special order of the day for to-morrow at 12, m., which motion was lost.

Mr. SAUNDERS said, as the chairman of the committee that made the report, it was proper for him to explain why its defence did not properly rest on him. The proposition which he had the honor of submitting, proposed the electoral basis, and on his motion it was referred to the special committee, who were afterwards charged with the examination of various other propositions. Upon that committee there was but one besides himself, perhaps, that was favorable to his proposition. The other members of the committee did not deem the federal basis proper; he was not himself particularly wedded to his own proposition. He admitted that the subject was surrounded with innumerable difficulties. He thought, nevertheless, without being disposed to view with too much partiality his own proposition on account of its paternity, that the principle in the old constitution was the simplest mode, and most in accordance with the democratic principle. He would not discuss the questions involved in the report, but would leave them to those more capable and more competent to do justice to the subject. In reference to that portion of the report that referred to the city, he conceded it was not in exact proportion with her population; but precise equality in the representation for the city was not looked for—was not expected by the city members themselves. The prin-

ciple was false which assumed that every man, woman and child should be represented. It could not be practically carried out, and was subject to exceptions. The true principle—the principle of the revolution, was that all parts of the country should be heard, not that they should be equally represented. Is it to be presumed that if the colonies could have had a single representative on the floor of the house of commons, that the revolution for independence would have occurred at the period it did? Other causes might and would have contributed to the separation from the mother country, but the leading cause of that event, was not that the colonies were not equally represented, but that they were not heard at all; and that the taxes were imposed without their being heard. The application of the principle, that every man, woman and child should be represented, would be illustrated by supposing that the city had fifty members accorded to it, and the Florda parishes had ten, the balance of the State would for the most part be totally unrepresented. It resulted then, that the principle of representation, based on population, was antagonistical to the principle that all the political portions of the country should be heard. Population should be heard, but the principle should not be carried to the extent that every man, woman and child be represented. By the report, one-fifth of the representation is accorded to the city. I will concede that much, and will for the sake of compromise, even yield up one-sixth. But, I cannot consent that other interests should not be heard, and that the city should monopolize all political power. With these few explanations, he would leave the defence of the report to those with whose opinions it more especially conformed.

Mr. Preston said he had the honor of being a member of the committee and he disagreed entirely with their report. His views upon this subject had been expressed upon another occasion. He would not report them, but would simply state his dissent from the report.

Mr. O'Bryan submitted the following as a substitute to the first section of the report, viz:

"Each parish shall have one representative, and beyond that if entitled to any more in proportion to the number of voters in each; *Provided*, that no parish or city shall ever have more than one-sixth of the whole number of representatives.

Mr. Taylor raised the question of order.

The President decided said substitute to be out of order.

Mr. O'Bryan then moved to amend said section by striking out the words "its population ascertained and calculated according to the principle of representation adopted in the constitution of the United States."

Mr. Grymes moved to amend the motion of the gentleman from Lafayette (Mr. O'Bryan) by striking out the proviso.

Mr. Beatty said the amendment of the gentleman from Lafayette, (Mr. O'Bryan) and the amendment of the gentleman from New Orleans (Mr. Grymes) would destroy the whole effect of the report of the committee. The committee had bestowed great attention to the difficult subject that was submitted for their consideration, and the result of their investigation was, that the federal basis offered the most equal and most convenient mode of apportioning the State. Whether they were correct or not in that opinion, it was for the house to decide. The solution of the inquiry whether population should be represented would not be difficult, if there were in this State but one species of population. In such a contingency an apportionment in reference solely to numbers might be proper. But the peculiar local circumstance of two populations in the same State—a white population and a slave population—produced inequalities that rendered a basis firmer alone on white population, extremely partial and unequal in its operation. The preponderance of whites over slaves in some of the political divisions of the State, and of slaves over whites in others, were so manifest that the very idea of excluding slaves altogether from entering into the basis, was evidently connected with the grossest injustice; it was tantamount to surrendering all the political power into the hands of the city, where the white population was on the increase and the slave population the decrease. A great portion of the menial labor performed in the country by slaves was performed in the city by white persons; the larger proportion of these white persons were not citizens of the United States, and were for the most part as devoid of interest

in the country as our slaves. Is there to be no guarantee for the people of the country in the character of the basis of representation? They possess the greatest proportion of the territery of the State and the preponderance of productive labor. All the arguments that apply to a mixed basis, in which property shall enter as a constituent part, equally apply to the admission of slaves into the basis of our representation, inasmuch as slaves are property; and so far as population is concerned, let gentlemen argue as they will, slaves are legally persons. Laws are made for their protection; for the punishment of crimes committed by them; and defining the relations of master and slave. Is it proper that the proprietors of this species of property should be denied that weight in the councils of the State, to which they are entitled? If you adopt the white basis you give to the city of New Orleans one half of the representation. Some gentlemen appear willing to take that basis, and then restrict the city to one-fifth of the representation. But this would not operate fairly as regards the southern portion of the State; it would be taking from it a portion of its political power and transfering it to the north and west. That would be its inevitable effect, and if there be a doubt upon the subject it will be dissipated by a reference to the sub-report. That if the basis of electors were adopted which gives to the city of New Orleans forty-seven members out of one hundred and eight, and the representation of the city be then reduced to one-fifth of the whole, as is proposed by some members, the effect of it would be greatly to alter the relative strength of the different sections of the State in the house of representatives. That although he desired to see the city limited in her representation, he could not consent to limit her in such manner as to give an ascendancy to to the north-west part of the State to which they were not entitled. That the north-west gained more than any other section of the State in taking the voters as the basis—except the city of New Orleans—it is therefore evident that if this basis be chosen, and we then cut off from the south the representatives which the city gains by that basis, that the relative weight of the different sections would be materially changed, appears from the number of votes polled in 1840, (and the basis of population or of electors, will give about the same result,) that the city of New Orleans will be entitled to forty-seven members out of one hundred and eight, leaving sixty-one to be divided among the balance of the State. If one-fifth be then subtracted from the city, the delegation from the first and second congressional districts will not exceed twenty-seven, while seventy-three will be allowed to the balance of the State. By the federal basis, the first and second districts will be equal in representation to the third and fourth—or if they are not precisely equal, there will not be any great disparity between them.

There is yet another difficulty if the white basis be adopted. It will disfranchise a number of the parishes, unless the number of representatives be placed beyond what has been judged proper or expedient by the committee. Some of the parishes that would be deprived of representation, have been in the enjoyment of that privilege since the formation of the State government. Mr. Beatty instanced the parishes of St. Charles, St. John the Baptist, St. Bernard, &c., &c. Yet they would be disfranchised, or else a representative would have arbitrarily to be allowed them, which would justify the complaint of an attempt to introduce the rotten borough system. The committee judge that such was not the sense of the house from the action it had taken, and the only means of doing justice to these parishes, without the violation of a principle, was the adoption of the federal basis of representation. This was conclusive with many other valid reasons of that preference for the basis.

Having briefly referred to the general features of the report, he would now notice the disposition in the second section, upon the creation of new parishes. This was evidently a wise and necessary provision, as it would prevent majorities in the legislature from distributing the balance of political power by the creation of new parishes that were without a sufficiency of territory or population to justify that creation. It established a permanent rule upon the subject, and together with the provision that no parish should ever have more than one-fifth of the representation; it secured a proper equality between the representation of all the various portions of the State. It justly looked to the future. It was not a temporary enactment; and it was plain it

could only refer to the parishes of Orleans and Jefferson; and it was not likely that any of the country parishes would ever swell to a size totally disproportionate with the other parishes. The cities of New Orleans and Jefferson were destined to compose but a single city. If some restrictions were not placed these two parishes would ultimately obtain control of the whole State, either independently by themselves or with the assistance of the adjoining and neighboring parishes, between whom there was an identity of interest and of feeling. That this would be the result, no one can doubt. There were advantages, too, from the concentration of power in the city, as well as the influence exercised over the legislature, so long as the city remained the seat of government; and from the absences, which characterises our legislative sessions, of the country members, which left the country occasionally without its full representation. If the seat of government were taken from the city, it would be the city then that would be exposed to that inconvenience. If the country lost its just weight, said Mr. Beatty, no one is to blame but themselves. It was no less for the true interests of the city than for the country, that she should be possessed of the preponderating control. This was admitted by sensible men, whose interests were confined to the city. The federal basis represented the productive labor of the State. It was a permanent, not a fluctuating and uncertain mode of representation; and in view of the political position of the State, it was recommended by the soundest considerations of good policy. Nothing was farther from his intentions than to act unjustly towards the city; he wished her to have all the weight to which she was entitled, consistent with the interests of the country, and to the permanency of our institutions.

Mr. Taylor of Assumption said he felt it to be his duty to reply to some of the remarks that had fallen from the gentlemen that last addressed the house, (Messrs. Saunders and Beatty.) The first named delegate has said that the true principle was not that numbers should be represented, but that they should be heard; and from that position he has drawn the remarkable conclusion, that if the colony of Massachusetts had had but one delegate on the floor of the house of commons, the American revolution would not have occurred. That the mere privilege of being heard, forsooth, would have removed every just cause of complaint against the mother country, and that no matter how despotic were the measures of the parliament, the colonies could have had no pretext for the revolution, if they had only had the privilege of being heard. I most emphatically (said Mr. Taylor) dissent from and condemn such an opinion.

The delegate from Lafourche, (Mr. Beatty) and his colleagues upon the committee who concurred with him in opinion, have not examined the naked question. They have looked at supposed results, and have been frightened by the phantoms conjured up by their own imaginations. They fear the concentration of power in the city; they fear that the country will be trodden down by the multitudes of the city. I am very far from apprehending the consequences which they assume to be inevitable, and for one am not disposed to sacrifice a fundamental principle in representative governments, with the idle hope of remedying an imaginary evil. That representation in the popular branch of the legislature should be apportioned according to numbers, is essential to the existence of republican government. If, from local causes, there should be a preponderance of power in a particular district, the evil, without doubt, should be remedied; but the remedy must not destroy the principle itself. In the present instance, I think that the gentlemen upon the committee have exaggerated the consequences of following out the true principle, and that they have overlooked the peculiar composition of the legislative department. One feature in its organization affords a guarantee against the disasters they anticipate. The committee on the legislative department, in its report, recommends that representation in the senate shall be based in a great degree on territory, and that the city shall elect only one-eighth of the whole number of senators. It is evident, from this fact, that whatever may be the preponderance of the city in the house of representatives, if the principle of equality and uniformity of representation be carried out, that it never can control the destinies of the State. Ample security is given to the country in the constitution of that body. Admit it for one moment,

that New Orleans should have the preponderance in the house of representatives, would not the absolute veto of the senate upon every act of that house be a sufficient check against the undue exercise of power on the part of the city? But let us go farther. What would be the consequence of limiting the city in the house of representatives as well as in the senate? It would present the unexampled spectacle of the majority being bound hand and foot, and delivered over to the power of the minority. The rights and interests of the many would be made dependant upon the will of the few.

These gentlemen say the country is in danger from the city. That at no distant day, the city will contain a large majority of the people of the State, and that then it will be in its power to oppress us; and then they would logically jump to the conclusion that we should so arrange representation as to put it in our power to oppress them. "Oh," say gentlemen, "we cannot trust the inhabitants of the city. They will be a majority, and they may oppress us." Indeed! and if we take power into our hands, might we not abuse it and oppress them? If the minority cannot trust the majority, how, I would ask, can the majority trust the minority? I do not hesitate to pronounce the proposition to limit the representation of the city in both branches of the legislature, as monstrous in theory, and to assert, that if adopted, it will lead to the most unhappy consequences. I felt compelled to notice what fell from gentlemen on this subject, though it is not immediately under discussion, and could not well say less on it, though I will not now say more.

Now, said Mr. Taylor, with the permission of the house, I will proceed to examine the question we are called on to decide (the motion of Mr. O'Bryan to strike out federal numbers.) We have already determined who are to be the depositaries of political power. It is to be vested in the white male citizens of the State who have attained the age of twenty-one years. It is the deliberate sense of the Convention, that they, and they only, shall exercise it. And now, after having settled that question, correctly as I think, we are about to decide how the legislative power in the house of representatives shall be distributed among the electors of the different parishes of the State. We have declared, in effect, that all the members of our political community are equal, and that they are entitled to equal weight in our elections.

If this be true—if they are equal—their representation ought to be apportioned among the different parishes according to their respective numbers. But after this solemn declaration, it is proposed to apportion them according to federal numbers. If this rule of apportionment is adopted, the principle of equality among our citizens, is at once violated, and may be said with truth that we

> ——"Make the promise to the ear,
> And break it to the hope."

There are three simple bases or modes of apportioning representation. First: with reference to population; second: in proportiom to taxation; and third: according to the number of qualified electors. From our peculiar position, we are precluded from adopting the basis of population. We have amongst us a class of beings, of our own species, who are holden as property; there is another class, free persons of color, who, though they are possessed of personal freedom, do not exercise any political rights. That basis, therefore, in my view, is out of the question.

The next basis—that of taxation—is liable to great objection. The existence of the institution of slavery obliges us to adopt various measures for the purpose of securing that species of property, and preserving it in a proper state of subordination. Our militia system, and that of police patrols, are very burdensome to the white population; and in consequence the principal weight of taxation is thrown on slave property. Whether a proper system of taxtion might not be devised, is not now the question.

The constitution of the United States provides that to the whole number of free persons, shall be added three fifths of all other persons. These persons are slaves, and three-fifths of them would be represented. This would be in fact making the principle of taxation enter into the apportionment of representation; for the only manner in which slaves can have any possible connection with our political system, is in their character of property, which makes them subjects of taxation.

The system of taxation in actual exis-

tence in this State, is so arbitrary and unequal, that until it is altogether reformed, very few would be likely to favor this basis. Without attempting, however, any investigation into the advantages or disadvantages of any of these simple bases, I will confine my attention to the one proposed. This, in my opinion, includes within itself all the vices of the two first mentioned bases, without any of their advantages. In the first place, free colored persons would make a part of the representative number. In the next place, foreigners not naturalized would enter into the composition of them; and finally; all to she citizens of other States, who happen to be present in the State at the time the census is taken, would also make a portion of them. Now it happens that nearly all of these three classes of persons, who have no polititical rights, are congregated in New Orleans. Out of a little upwards of 23,000 free colored persons in the State, nearly 20,000 of them are inhabitants of the city. It is the same with foreigners not naturalized.

If taxation upon slaves alone were the basis, it would operate unequally, not only as regards city and country, but in reference to different portions of the country in relation to each other. The number of slaves are not equal in the different political divisions of the State, and where slaves predominated, representation would be greater in proportion than where white persons predominated. No matter in what point of view we examine the results of such a basis, it is eminently unjust and unequal. It embodies, I repeat again, all the vices without any of the benefits of the other modes. There are other considerations growing out of the peculiarity of our situation and of our institutions that should admonish us not to adopt it. If we do adopt it, the consequences will produce, sooner or later, conflict between the city and country. If it be true that slaves are diminishing in the city, the same causes that have contributed to that result will continue to operate, and the inhabitants of the city will not be slow in perceiving that they lose political power in the ratio of the decrease of slaves from among them, and with its consequent increase in other portions of the State, that the element of representation is not white men, but slaves. This will cause a line of demarcation between city and country. The first feeling will be opposition to that species of property that has been employed as a means to deprive them of their political power. The next will be aversion to the cause from whence it originated. These fee ings are natural to the human heart. All history teaches us, that when men are deprived of what they conceive to be a right, they hate the instrument by which it is effected, and if this injustice be persisted in, at no distant day, I will venture to predict, that opposition will ripen into a deadly hostility, and the citizens of New Orleans will be united as one man against the institution which is made use of to produce the inequality.

It would be most impolitic to do any thing to bring about such a state of feeling. We abhor and detest the unwarrantable interference of northern fanatics with our institutions, and we are united to resist their incendiary efforts. Far otherwise will it be, if you disfranchise a portion of the white population, in whom you have said the political power of the State resides, under pretext of depriving the city of New Orleans of her influence; and then transfer that power to the proprietors of your slaves—the city will increase in white population and decrease in slave population, and you will raise up in the city an antagonist interest against that species of property in the country. I apprehend the consequences of such a course, because I am sensible of the danger.

Is there a delegate on this floor that does not perceive that it will transfer the practical cry of abolition from the north to our own soil: to our own capital. There are other reasons why we should preserve an identity of interest and of feeling between the city and the country. Dangers may arise where the aid and assistance of the city may be necessary. Let us not then adopt a rule that will sow the seeds of dissention; that will cause envy and jealousy, and which will result in an open rupture between the city and the country.

Let us be just to the city, and then if we are assailed, if our rights are invaded, if our slave property is disturbed by foreign invasion, or domestic insurrection, her citizens will aid us in the conflict, and not be numbered with our enemies.

Mr. Downs said, I do not consider the point stands in the same situation as before the last committee made their report. The arguments in favor of the federal basis are not so strong as without the proviso recommended by the last committee. But I yet think the arguments are sufficiently strong to adopt that principle. No man admires more the eloquent and beautiful theories of the gentleman from Lafourche (Mr. Taylor,) than I; but however plausible they may be, they fail to satisfy my mind of the practical results. I will not attempt to follow the gentleman through all the ingenious ramifications of his argument; but I will proceed to combat his principal point of objections to the report, which I think entirely erroneous. All that he has said may be reduced to this, that the federal basis operates with peculiar harshness upon the city of New Orleans. I defy any one to find any thing else in his argument. This is the substance, this is the basis of all that he has said, and he overcomes it himself by admitting and recommending the inequality of representation in the senate as regards the city, as both proper and expedient. Showing that in despite of beautiful theories, that the idea of equality in representation, is impracticable. The idea of perfect equality in representative governments, is one of those speculative ideas that may serve as a basis for impassioned declamation, but which will not stand a rigid scrutiny. There is no community—no city—no village, where every individual can flatter himself with exercising the same amount of political power; and it must hence be conceded that such perfect equality is not possible. We may attempt and very properly do attempt to reach that equality, but we know the result in its perfect state to be unattainable; and I therefore contend that when we endeavor to establish it, we should not be led astray by false and visionary theories, but should confine ourselves to practical results, which have stood the test and received the sanction of experience.

Taking experience then as our guide, I would ask in what manner is the federal basis so unjust towards the city? I am told that it despoils her of a portion of her political power. It seems to me that this basis represents a numerous class to be found in the city which are not to be found in the country, or if found, only in small numbers. I allude to the laboring classes of the white population. In fact, who replaces that population in the country? It is the slaves, who are counted not in an equality as to their numbers, but in the proportion of three-fifths. I say this without intending to disparage the poorer classes that work in the city from day to day as laborers, and for whom I have been steadfast in claiming the political and important right of suffrage. But as it is evident that this class predominates in the city, and from the agricultural pursuits of the country, slaves predominate; there the federal basis is peculiarly appropriate, so as to reconcile the difference arising from the two kinds of population as to their relative numerical superiority in the city and in the country. But admitting for the sake of the argument, that greater relative political power be conceded to the proprietors of slaves than to those not possessed of that property, how can the gentleman (Mr. Taylor) imagine that this will tend to introduce abolition among us, and make the city the hot-bed of that abominable doctrine. This argument of the gentleman defeats itself, for it there be any such possibility, the necessity is strong why the country should look for protection to herself. It is not from without that we can be successfully assailed, but it is from within, and there it is we should be invulnerable. The country never should be placed in a state of dependence upon the city for her safety, and should she ever be in that unfortunate position, the danger will indeed be fearful and irretrievable. The federal basis in despite of the theories and declamations of the gentleman, is a bulwark against abolition. Hence the expediency and peculiar fitness of that basis in a slave holding State; and to all the arguments that have been addressed to sectional prejudices, and all the appeals to the city, I reply, by a simple fact, that now, when the country has the political ascendancy, and has both the will and the means of protecting herself, that so far from this creating an unnatural feeling of jealousy on the part of the city, the city is with her, identified in feeling and in interest—so far did this unanimity of sentiment prevail, that on a recent occasion, when the State of Massachusetts permitted herself to address us upon this very prin-

ciple or federal representation, with the view of affecting the question of slavery, the senate, without a reference of the subject to a committee, instantly passed resolutions expressive of their indignation at such interference—these resolutions were taken down to the house of representatives, at the moment engrossed by an animated debate, but no sooner were they announced by the secretary of the senate, than the debate was suspended---the resolutions were instantly concured in unanimously, and returned to the senate.

The principle of federal representation, (continued Mr. Downs) is good or bad. If the principle be bad, it must be conceded to be bad altogether, and the abolitionists who declaim so loud against it, must be in the right. But the proof that this principle is a vital one is this, that it preserves the union of the States; for no one will pretend that if that basis were abrogated, the Union would hold together twenty-four hours. It would tumble to pieces. It is conceded that as a natural principle it is both wise and expedient—it would not do to dispute that point---but it is said that the same reasons do not exist for its local application in this State. I admit that the reasons are not so powerful; but yet I contend that the effect itself is the same, for it establishes the equilibrium between the parishes themselves, and reconciles the disparity in population between those that have an excess of white population and those that have an excess of slave population.

I did not expect to be so suddenly engaged in the debate, but the arguments of the member from Lafourche, (Mr. Taylor) appeared to me to be so singular and so erroneous, that I could not refrain from replying to them. He seems to think it involves an unjust preference to choose arbitrarily one kind of property for the basis of representation, instead of all kinds of property. The gentleman overlooks the difficulty of subjecting all kinds of property to equal taxation, and some particular kinds of property in fact, to any taxation. Slaves are visable property—they are attached too to the territory. It would be impossible to apportion representation equally upon all kinds of property, were it taken into the basis, and to make the distribution of the representation with such mathematical precision that each portion of the political community should have its just proportion. It is evident that great difficulties must attend the imposition of taxes upon capital. It is clear that a loan of one hundred thousand dollars would yield more interest than a plantation of the same value—yet the plantation could be easily taxed—so could houses and slaves, but it would be very difficult to reach capital and to apportion taxation proportionally upon it. So would it be with the attempts to apportion representation upon so fluctuating and uncertain a basis. There is no difficulty in taxing slaves; they are easy to be identified—whereas, the calculations that would be necessary in reference to other kinds of property, and the fluctuating character of that property would make it very unsatisfactory as a basis.

But it seems the gentlemen are not satisfied with attacking the principle of federal representation in the report, but they must needs destroy the proviso. I always entertained the conviction that when we reached that question, every one would comprehend the necessity of restraining the power of the city within rational limits, compatible with the relative power and the safety of the ballance of the State. I certainly have no hostilities nor prejudices against the city, but I do think that this precaution which is a distinguishing trait in the old constitution, ought to be observed. The danger of concentrated power is too obvious to be insisted upon. It is evident that a number of individuals collected together in a city can exercise greater power, and that their power will be more efficient than the same number of persons scattered over a wide expanse of territory. The combination of numbers was a favorite principle of Napoleon, and it was upon that principle that he won his most distinguished battles. It was the concentration of a large force at a particular point. Without carrying out the comparison further, I may say, that in the political contests decided in the legislature, as in the strategie of military service, that body is the strongest which can soonest coalesce, and among whom there is the greatest point of attraction. So that in the city, one hundred thousand persons who have ready means of communicating with each other, who may be instructed and harangued with the

utmost facility as to any particular point of policy, have more power than double that number scattered over various parishes of the country, not perhaps knowing each other, and distrustful of one another from the want of that constant intercourse that exists in the city. A single representative would be more efficacious in representing the combined interests of the city, by reason of his contact and intercourse with the citizens, than the representative of an extensive parish, where the population was scattered, and where the means of meeting with them were extremely difficult.

For these reasons, said Mr. Downs, I hope that the present report will be taken up in the spirit of conciliation, and where it is faulty it can be amended. As I said, on the occasion, when the first report was so violently denounced, no report could be made that would meet with a better reception, and I find that my anticipation has been completely realized; for the labors of the last committee appear to be as unpalatable as those of the first.

Mr. Dunn said he concluded in the main with the arguments adduced by the delegate from Ouachita (Mr. Downs.) He could not consider the federal basis as an arbitrary rule, but as a principle appropriately befitting our peculiar institutions. He was ready and willtng, on all occasions, to do justice to the city, and if he could be convinced that injustice was done to the city, he would cheerfully make every reparation, short of abandoning a fundamental principle. The true point of difficulty, after all, between the abolitionists and ourselves was slave labor opposed to white labor. That was the foundation of all their pretended philanthropy, and it was therefore essential that we should let them know that the principle against which they waged war, was consecrated among us to perpetuity. Although slaves were, in one sense, property, they were in another, no less a portion of our population; and both as persons and as property, they ought to enter into the basis of our representation.

Mr. Ratliff objected strenuously to this basis. There was something derogatory in the idea of placing a slave, in reference to representation, upon an equality with a white man. It would give rise to feelings of jealousy; for the consequence would be that the proprietor of slaves would have a much greater weight at the ballot-box than the honest citizen that was too poor to possess them. It was true that both would be allowed to deposit but a single ballot, but the ballot of the owner of the slave would be, in fact and in effect, double, treble, or quadruple, in proportion to the number of his slaves. The father of five minor children would have but a single voice at the ballot-box, while the owner of an old, decrepid and worn-out negro and four negro children, would be entitled not only to the representation accorded to him as a citizen of the country, but likewise to the representation accorded to these slaves. The principle was unjust—it was unequal, and operated exclusively in favor of the rich; and hence it was distasteful to him. It was not only in the city, where there were inequalities of condition. There were poor people in the country—hard-working, industrious people in the country—that had to do their own work, and were not possessed of slaves. It would be repugnant to the true principles of democracy to say, that a farmer without slaves, working on h s own farm, should have less weight in the government than the rich proprietor adjoining his little farm, who had a hundred negroes. But, whether the principle affected city or country, we ought to act with impartiality, and not make humiliating distinctions. If the city is to be restrained within the limits of a just proportion of the representation, and that was obviously proper, let it be done by unexceptionable means. Do not let us sacrifice the rights of any portion of our constituents, and say because a man owns slaves he shall have greater weight than another man that has none. They are all citizens alike, whether rich or poor.

I feel quite confident that the delegate from Oachita, (Mr. Downs,) never electioneered among his constituents on the principle that a person without slaves was not the equal of a rich planter with fifty or sixty negroes, and that the former was not entitled to as much weight at the ballot box. If the gentleman had done so, he would not be where he now is.

Mr. Downs: Did the gentleman communicate to his constituents before the election that he would take the position he now assumes upon this subject?

Mr. Ratliff: I did not, because I nev-

er imagined that the poor would be placed upon an an equality with negroes—and that representation would be claimed for the latter upon the same principle that it is accorded to freemen, to wit: that poor white people performed the menial services required of our slaves! That may be true, Mr. President; but I think there is a vast difference between the one and the other, whatever may be the opinions of others to the contrary. There are various considerations which should induce us to pause and reflect well, before we adopt a basis not founded upon principles of equality. If the tariff be continued, it is not at all improbable that the surplus of the slave population, will be employed in the cultivation of sugar, and where then will be the balance of power? The delegate from Oachita will find that he has committed a sad mistake. I admit with that gentleman that perfect equality may not be attainable, but at least let us endeavor to approach that standard as near as possible.

In reference to the State of Virginia, I have one remark to make. It was not in reference to the question of slavery that the federal basis was adopted, but to maintain the equilibrium between the eastern and western portions of that State—the two great geographical divisions. I would prefer rather to take population and land than the federal, because the land is stationary, if I were restricted to the one or the other of these two modes of apportionment.

These are my present views, Mr. President, and I reserve to myself the right of making such further suggestions as may occur to me in the progress of this debate.

Whereupon, on motion, the Convention adjourned until to-morrow at the usual hour.

Thursday, February 27 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer, by the Rev. Mr. Goodrich.

The journal was read and approved.

On motion of Mr. Taylor, the delegate from West Baton Rouge, Mr. Chinn, was excused, for his non-attendance for several days past—during which time he was sick.

Mr. Mayo, chairman of the committee on education, submitted the following report and resolutions, viz:

"As it is through the medium of education that the intellectual faculties of man are cultivated, and his physical and mental powers regulated and perfected, the subject would appear to justify as much attention and care as any other that can engage the attention of the legislator.

"This State has for many years acted with a degree of liberality in making appropriations for the erection and support of colleges and academies, and for the education of indigent children.

"By the report of the State treasurer, dated 11th January, 1844, it appears that the sum of $1,710,559 40-100, from the year 1812 to the 31st December, 1844, has been expended by the State for the support of public schools, colleges, academies, seminaries, and asylums; and by the same report it appears that $463,791 71-100, which is more than one-fourth of the whole sum, has been expended for the building and support of the colleges of Louisiana and Jefferson. The first of which is not now in operation; and owing to the want of a regular system of education, has not produced results that ought to have been expected from so large an amount of expenditure.

"The college of Jefferson is in operation, and has seventy or eighty students, as appears from the report of the committee of the house of representatives on the subject of education, lately made to that body.

"The annual appropriation for that institution being $10,000, the annual expenditure for each student, supposing the number to be eighty, is $125, paid by the State, in addition to all the expenses of tuition, board, &c., which is paid by individuals.

"These facts are stated for no other purpose than to bring to view the disproportion in the expenditure, and actual waste of public money for want of a well regulated system of education.

"A large portion of the State is in a situation, in relation to schools, which is truly to be lamented; produced by various causes, some of which are peculiar to local situations where the population is extremely sparse, rendering it impracticable to support schools in the neighborhood, for want of sufficient number of children to attend them without sending them from home to board, which many persons of large families either have not the means to do, or if they have, are not disposed to appropriate

them for that purpose, in other neighborhoods where schools could be supplied if the people desired. No interest or zeal appears to be felt on the subject, and children are permitted to grow up in ignorance, for want of a disposition on the part of the parent to educate them. The money that has been expended for the support of schools has in many, if not a majority of the parishes, failed to produce the beneficial results which were intended. Incompetent men have been employed as teachers, whose object has been to get the public money, more than improve the children under their care; and when the public money, to which a school has been entitled, has been exhausted, the schools in many instances have been broken up, and no more taught in the neighborhood until another supply of money has been expected from the State to pay the teacher.

"Owing to facts like these, the children that have occasionally attended the schools have received, in many places, but little benefit from them. One of the causes of the failure in the expenditure of the funds of the State, distributed to the parishes generally, has been that indigent children only have been entitled to the benefits of the public funds. Men of the high sentiments and noble feelings that characterize the citizens of this State feel a repugnance at the thought of educating their children by the use of a fund that none but the poor and needy can be partakers of. Hence it is believed that many persons, unable to educate their children at their own expense, have too much pride and feel that it would be humiliating to themselves and their children to partake of a bounty thus offered. When the fact of partaking furnishes of itself evidence of their poverty and indigence; and though this may to some extent arise from false pride, still the fact exists, and the effect is the same as though the objection were a good one. Another cause of the failure has been that large expenditures have been made for building colleges and academies for the promotion of the higher branches of literature, before providing the means for teaching the first rudiments of a common education.

"The necessary steps ought first to be taken to place within the reach of the mass of the children throughout the State, such an education as will fit them for the higher branches, and in such a manner as to place all on an equal footing in the enjoyment of the benefits to be derived from the funds of the State. This would create a laudable ambition between those whose progress and advancement would fit them for the higher schools; and thus the higher as well as the lower would be supported. The progress of the child in the acquisition of a substantial education, would emulate the parent; parents would encourage each other; and when the spirit of education could be fairly put into operation, it is believed that it would here, as it has done in many of the States of the United States, and in Prussia and Germany, carry with it public opinion, which in this country is all that is necessary to sustain any measure that promises to be permanently useful.

"The people must see and feel the importance of the subject, the necessity of action. The subject must receive their approbation; excite their interest and zeal; they must act together with their influence and money to carry it into operation. The public mind in this State has never been sufficiently aroused to the importance of educating the youth. Any system that may be organised, not calculated to enlist the feelings and receive the cordial approbation and support of a majority of the citizens, cannot be relied upon to effect the object desired, viz: that of furnishing to the greatest number of the rising generation, upon equal terms, the best education that the resources of the State, and of its citizens generally, will justify.

"To overcome these difficulties would require a system more in detail, than it would be proper to incorporate into the constitution, and which would often have to be changed and improved, as circumstances and observation might require.

"Provision ought to be made by the State for as large a fund for immediate use as its financial condition will permit, and also for a permanent fund for future use, large enough if possible to afford the means to all the children in the State of obtaining a knowledge of reading, writing and arithmetic; branches which are indispensably necessary to every citizen in his intercourse with his fellow man and with the world.

"Your committee have, by a provision which they report herewith, endeavored to lay the foundation for a permanent fund,

which will have the power of increase within itself; to meet the increase of children, and of expenditure that improvements may require, as will be seen by the provisions reported.

"A provision is also contained in the report providing for the appointment of a superintendent of education; the object of which is to secure an efficient officer whose sole business shall be to attend to the duties of that office, and who shall constitute the head of an organized school department of the State. By another section it is made the duty of the legislature to encourage the institution of common schools throughout the State, for the promotion of literature and the arts and sciences, and to provide means for their support. By enjoining the encouragement and support of education upon the legislature, it will be part of the duty which every member of that body will be sworn to perform, to give it attention.

"The cultivation of the mental faculties for the promotion of wisdom, morality and virtue, is amongst the first duties of a State. The chief object of constitutions and laws being to render its citizens secure in their lives, liberty and property, the importance of a good education to each individual, to every community, and to the State, cannot be too highly valued. It is certainly of too great value to be estimated by any pecuniary consideration.

"From the genius, nature and spirit of republican government, it is and must be based upon public opinion; which to be salutary in its operation must be virtuous and enlightened.

"The permanence of our institutions ever have, and must continue to depend upon the genius of our constitution and laws, sustained by that spirit of freedom which actuates every man who is truly an American.

"Upon education we may safely confide as the conservative power of the State, that will watch over our liberties and guard them against fraud, corruption and decay.

"Without morality, virtue and intelligence to regulate the genius and spirit of republicanism, the latter one constantly exposed to be swept away by the iron rule of ignorance and vice, when wielded by demagogues, to destroy our liberties.

"Morality and virtue may exist without the peculiar culture of schools; but a man can hardly be said to be intelligent without knowing how to read, and without that kind of knowledge that generally has its source in an education acquired at school. Without intelligence, virtue and morality would cease to perform their legitimate functions, and to have that influence upon the body politic which it is necessary they should exert. Without these necessary ingredients to sustain the purity and harmony of our constitution and laws, unless the people know and appreciate their rights, and know how to maintain and protect them, the vicious and disorderly will protect and screen each other from the operation of the laws; the restraining influence of the social and political compact will be annihilated, and dissolution and ruin will be the inevitable result.

"There can be no security, the true spirit of liberty cannot exist where vice, ignorance and immorality predominate.

"Where a right direction is given to the young and tender mind, correct principles inculcated and impulses given, morality, virtue and reason commence their reign, and with the necessary culture fit their possessors to be useful to themselves, ornaments to society, and safe-guards to the State. The strength of the State and the happiness of its people increase with the increase of useful knowledge. Without knowing their rights and duties men become dangerous to the State, nuisances to the community, and burdensome to themselves. By laying the foundation of a system susceptible of being carried into practical operation, and which will secure to the rising generation the means by which they may be educated.

"The greatest degree of social and individual prosperity will be secured to our posterity, and a strong guarantee of protection to our constitution and laws.

"Louisiana should possess the means of educating her youths at home. Southern men should have southern heads and hearts, with sentiments untarnished by doctrines at war with our rights and liberties. It is of the first importance that correct impressions be made upon the minds of children; for it is difficult to unlearn what has been learned amiss.

"When our children return from the north, after having received an education

there, they have to be re-acclimated, and not unfrequently fall victims to the effects of the change. Many of the most promising youths of the State have been swept away within a very short period after their return with an accomplished education, from the effects of a change of climate. Youths who were the fondest hopes of their parents, and promised to be ornaments, not only to them, but to the State, and whose loss to both is irreparable.

"All this can be remedied by entering upon the work ourselves, with a determination to accomplish it. A good education furnished to the rising generation, will afford us a better guarantee of protection than fleets and armies. Shall we not then be inexcusable for neglect to make the trial?

"It is said that a man will give all he has for his life. If so, ought he not, with equal readness, give the same price, if necessary, to secure his life, liberty and happiness, and the prospect of conferring upon his posterity the same blessings, enriched and ennobled by the highest degree of intellectual attainments?

"All of which is respectfully submitted, together with the accompanying provisions and resolutions.

[Signed] "G. MAYO,
"Chairman."

Report of the committee on the subject of education:

Sec. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years; whose duties shall be prescribed by law; and who shall receive such compensation as the legislature may direct.

Sec. 2. The legislature shall encourage the institution of common schools throughout the State, for the promotion of literature and the arts and sciences, and shall provide means for that purpose and for their support.

Sec. 3. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the use and support of schools, and of all land that may have been or may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of — per cent., which interest, together with all the rents of the unsold lands, shall be inviolably appropriated to the support of schools and institutions of learning throughout the State, until the rents or interest, or both together, shall amount to the sum of —— per annum; after which the annual excess of such rents and interest may be applied by the legislature to other objects.

Sec. 4. The funds arising from the rents or sales, which may hereafter be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be inviolably applied to the use specified, or that may be specified in the grant.

And your committee recommend the adoption of the following resolution:

Resolved, That our representatives and senators in congress be requested to use their best efforts to procure the passage of a law, granting to this State the unsold lands within this State, belonging to the United States, or as large a portion thereof as possible, for the purpose of education; and to co-operate, if necessary to effect that object, with the representatives and senators in congress from other States.

On motion of Mr. Mayo, said report and resolutions were laid on the table subject to call, and ordered to be printed.

Mr. Benjamin moved a re-consideration of the vote just taken on the printing of the report just read. He thinks the expense of printing may be avoided. We shall before we want to touch the matter it treats of, have it published in our official reports, and we ought to endeavor to make the printer's bills as light as possible, for they are now so heavy as to be hard to meet.

The re-consideration was granted, and then

Mr. Benjamin moved that the sections accompanying the report and the resolution connected therewith be printed, and furnished this Convention forthwith, which motion prevailed.

The special order of the day was the report of the committee of revision.

The committee of revision submitted the following report to the Convention:

SECTION SECOND OF ARTICLE FIRST, AS REPORTED BY THE COMMITTEE OF REVISION.

SEC. 2. No one of these departments nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

Mr. ROMAN asked if there was not a misprint in the report now before us, and whether the word "or" was not in the original report the word "and?"

The secretary referred to the report of the committee and found it to be the word "or" as printed.

Mr. BENJAMIN moved the adoption of the section, and it was accordingly adopted.

The Convention then proceeded to the

ORDER OF THE DAY.

Section 6th, of the report of the special committee, composed of three members from each congressional dictrict, viz:

"Each parish shall be entitled to representation in portion to its population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States. *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

Mr. MARIGNY took the floor and addressed the Convention.

Mr. President, I had hoped that the special committee to whom was referred the subject of apportionment, and whose report we have now before us, would have been not only more prudent, but more just than they have. I had expected they would have eschewed the federal basis, which has been already the cause of so many warm discussions—and looking back to the constitution of 1812, would have preferred the basis, "the electoral," which they adopted, and certainly there was then less danger than now, in establishing a representative apportionment—based on slave population, no matter what the ratio may be agreed upon here. But since they seem blindly determined to allow no more to the city than one-fifth of the representatives of the State—to that city, which contains one-third of the population of the State, and contributes at least two-thirds of all the money paid into the State treasury—and while it is further made clear to us, that the influence of the city is further to be overshadowed, and neutralized by the adoption of the federal basis, I have no course left me but to endeavor to hold up to your gaze this monstrous usurpation of power, this flagrant violation of every principle of equality, probety and justice, and to point out to you the dangerous consequences which must inevitably flow from such a course.

Would to God, I could be inspired with language that should carry conviction to your minds as to the outrageous injustice this measure is to perpetuate! I feel myself that I appreciate that wrong; and I shall by every effort in my power endeavor to shew you, that you cannot act with such injustice to New Orleans, without undermining the social fabric itself. I will not as some other speakers have done, refer you to some hundred extracts from authors on this subject, which alone go to shew that what those authors said and wrote belonged to a different age, and a different locality from ours. No, I shall confine myself to the section of country in which we live, and with the historical facts of that country. I shall endeavor to tear away the veil from that committee, without fear, favor, or affection.

What was the state of slavery in America at the time of the Declaration of Independence? The powers of Europe who had divided among themselves this vast continent, universally and openly acknowledged the right to trade in slaves. Then you heard nothing of abolition, or of abolitionism, and slavery was then universally allowed to exist throughout the new world, with perhaps one small spot, that was in the blue mountains of the Island of Jamaica, where the Maroons maintained themselves for the period of eighty years, and finally the British government had to make terms with them, which were to leave them unmolested on condition that they did not interfere in the colonial affairs—and abstained from seducing or enticing away from the plantations the negro slaves thereon.

But how did the monarchical powers act towards these beings, whom by law were consigned to the service of the whites? It is that which demands our attention, particularly, so far as regards Louisiana.

The Spanish government had one criminal jurisprudence alike for the white and negro population, and no negro could then be executed unless the signature of the King had been procured to the warrant. This was fully exemplified during the administration of the Baron de Carondelet, in 1797, when a slave named Jean Baptiste committed an atrocious murder. The people loudly called for the prompt execution of the murderer, who was condemned to be hung, and yet the Baron dare not take upon himself to see the verdict of the law enforced.

He consulted with J. B. Vidal, the King's commissioner and procurator, who told him that he was not authorised to order the execution, without laying himself liable to a heavy penalty. Popular indignation and fury rose to the highest pitch, and the governor had at last, to incur whatever penalty the court of Madrid might see fit to impose on him, and consent to the execution of the slave: all the facts of the case were forwarded to the court of Spain, who referred the same to the department charged with the affairs of the West Indies; they disapproved of the Baron's course, and condemned him to pay a fine of $500. This case is mentioned in Judge Martin's History of Louisiana.

Besides that, a slave had a *right*, of which he could not be deprived, to purchase his own freedom. All he had to do, was to go before a judge, who put a valuation on him, or had him valued—and if the master could not prove that the slave had unlawfully acquired the money, he had the right to purchase his freedom in spite of his master. The slave had also the right to acquire and hold property, and the master had no right, even if he died a slave to inherit his own slave's property. Slaves had then the right of assembling together for amusement every Sunday, and of enjoying themselves in such games as they please. This privilege being abused on more than one occasion, the ——— Jean Paul Lanosse, was desirous of putting an end to it, and applied to the same councillor to whom Carondelet had applied for advice, and from him he learnt that it was a privilege accorded to them under an act of "Isabella" the catholic, and could not be abrogated. He further read him a passage of sacred history, where it was laid down, that Saint Madeleinae, tired and weary from six days labor, applied to the Lord for the privilege of *dancing on Sunday*, and he granted it.

Where are now these privileges? They have vanished under the operation of the black code, and yet, while you, under the name of law, and under pretence of right, have stripped these same beings of every privilege, you at the same time are very glad to put up your claims for representation on their account. Further, you want some 25,000 to 30,000 free persons of color, which the constitution of 1812 has deprived of the right of representation included in your basis.

The framers of that constitution were consistent, because after they had established the principle that colored people should have no voice in the councils or representative voice in the legislature, they discarded all but the electoral basis.

But what do you do? First you aim the same blow at them; and sencondly, you class them with animals, as cattle. You shall never be anything yourselves it is true say you, but we mean to take advantage of the possession of you, to usurp from others in consequence of such possession, the right of representation.

I shall endeavor to shew you how unreasonable and dangerous is this scheme of usurpation which you are striving to force through.

Under the Spanish government, free blacks enjoyed all the privileges of white persons. That led to an amalgamation between the white and colored races, until finally they have become within four degrees of the white man; and did not prudence forbid me, I could name several families who are descendants of those persons, whose color depends on that law to recognize them as white. Now let us see the results of that law. The Governor of Louisiana, Galvez, was desirous of taking possession by conquest of the Floridas, but being short of troops of the line, and with a white population not amounting to over 20,000 persons, he called into service every male inhabitant under forty-five years of age, and all those free colored persons who were recognized as citizens under the law. They crossed by the marshes leading towards Pearl River till they reached that point, and found their way across to the Gulf of Mexico, and thence finally arrived

before Pensacola, where Campbell was in command.

A naturalized Spaniard by the name of Rousseau, whose descendants are as numerous as his name was famous, furnished them with artillery in flat bottomed boats. Another by the name of Guillemard, placed them advantageously for the attack, and after they had succeeded in making two breaches in the enemy's entrenchments, the colored regiment, under the command of one of Galvez' aids de camp, rushed in, and were the first who entered Fort St. Michael.

So pleased was the king of Spain with this act of bravery, that he granted to five of them the privilege of carrying a sword, and wearing the ribbon of honor. Finally, under the administration of De Mireau, a negro by the name of St. Malo, endeavoring to imitate the example set him by the blacks of Jamaica, fortified himself in the neighborhood of Lake Borgne, with a force of one hundred and fifty men, and for a period of thirty years maintained his ground, and became the terror of every settler on Terre aux Bœuffs. Who was relied on to put down this dreaded rebel? Why the very colored people of whom we have before spoken. They marched courageously to the scene of action, led by the same aid de camp [Mr. de Marigny, the father of the gentleman now addressing the house] of Galvez, who had commanded them at Pensacola, surprised St. Malo in his retreat, and captured him, with seven of his followers, and brought them to the city, where they perished on the gibbet.

Again, who does not recollect that it is to this same class that we are indebted for ridding the country of the celebrated Bowles, in 1800, during the administration of Cassa Calvo. That bold and daring man had been raised among the Indians—formed the plan of bringing over the Creeks and Seminoles to the aid of Spain. At first he succeeded. He went to Jamaica, returned with men and money, and encamped at Apalachicola; directing his attack upon fort St. Mark, (which was commanded by one Portil.) He displayed tact and courage in his movements; but unfortunately for himself, committed such depredations as to awaken Louisiana to a sense of her own danger, should he succeed.

De Cassacalvo formed a body of men, 2000 strong, which he placed under the command of Col. Trudeau. Fruitless enterprise! it succombed to the Indian rifle and tomahawk. What then was to be done? Why they again called out the people of color, and 800 of them marched to the seat of action under De Salles and De Breni Desclouet. They arrived shortly after, and raised the seige. Bowles was immediately afterwards taken prisoner, and died in the dungeons of Havana.

Yes, Mr. President; these men did what I have told you under the Spanish government, whilst they had the prospect of citizenship before their eyes for their children. I do not claim here for those they have left behind them either those rights or those privileges; but I do say that it is in the highest degree impolitic to make our representation based on any principle which should remind them of what they were, and what they are. In other words, I do not think we ought to take any step which would have the effect of embittering their feelings against us on account of the present state of things. It surely cannot be on their account that you want to establish the federal basis. No, for they have asked you nothing, and you have determined to give them nothing, so far as rights and privileges are concerned. Why, then, take them into consideration in making your basis? Why carry them into the dire necessity of comparing the past with the present? Why, I ask? because ambition blinds you, and without troubling yourselves about the consequences of such a measure, you think alone of benefiting the country at the expense of the city, as if the city was peopled by a set of Vandals, ready to pounce upon and destroy your plantations. As if the inhabitants of New Orleans thought of nothing but pillage, plunder and rapine, like the brigands of Calabria; who hid themselves from the gaze of the traveller behind the jutting rocks, more effectually to surprize and destroy them.

But, sir, what great harm has New Orleans ever done to the country, that she is now so roughly and unjustly handled, and for which they claim so much from her? They tell you it is the Irishmen they fear. *The Irishmen*, is their everlasting cry. That is the bugbear. You would almost think, when you heard that cry, as I have heard it dinned into my ears, that a band

of Irish had rushed into the churches, and destroyed and defaced the image of Christ himself—and yet these Irishmen are a very industrious kind of people. We meet them in all the walks of life, and in every society. If poverty and laborious toil were considered as vices now-a-days, I might think, perhaps, that they were a very vicious people, for it is true that the masses are not rich. But, thank God, in our country, to be rich is nothing—to be industrious every thing. Who does not know that intelligence and genius are like the vigorous plants of spring, whose strength can only be developed by a rich soil, and whose verdure is constantly exposed to the powerful and genial influence of the sun.

There is no country on the face of the globe where examples abound as they do in this, to support the position I have taken.

After the conquest of Canada, when the Canadians and the Acadians were doomed to exile rather than submit to the English yoke, some 3000 of them arrived upon our shores —upon the soil of Louisiana. The whole population at that time numbered about 2000. The naked and squalid condition of this large mass of human beings, who were fugitives from their own country, naturally inspired our citizens with alarm and dread—I may say consternation; and the question was every where asked if we were to give such people a home amongst us. Every one then seemed to vie, who could inflict the greatest indignity on them; and finally the idea seemed to be general, that they should be made to return the way from whence they came.

But after some more reflection, upon the advice and by the firmness of some generous men, the feeling of selfishness was conquered, and listened to the call made upon them by the famous chevalier de Villires. This knight, brave man, worthy to rank amongst the knights of ancient days, was the last of seven brothers who had all borne arms in the wars of Canada; one of whom, was renouned for his valor and his military talents, and who finally yielded up to Gen. Washington fort Necessity when he laid siege to it, and if for nothing else, he deserved the good wishes of every American; for, probably, by that act, he preserved to us the man who was destined to become the hero and the father of his country. His name-sake then crossed the periled ocean, domicilated himself amongst us, and married a Miss Livaudais. It was well known that had he chosen to have returned to France, that honors and wealth awaited him for the military services he had rendered to his country in Canada. It was this man then, when his heart was touched by feelings of pity and commiseration when he beheld the distress and sufferings of these voluntary exiles from their country, that was determined, so far as he was concerned, that those brave men who had served under Montcalm should not be inhospitably driven back to the shores of the gulf. What did he do? Why he buckled on his sword to his side, (for in those days it was the brave spirit, and not the everlasting dollar as now, that commanded esteem in Louisiana,) and repaired to the levee.

There the Acadians were in doubt and despondency. He mixed amongst them, encouraged them and kept their drooping spirits, others followed this noble example; the result was, that the Acadians, finding themselves protected, immediatel y afterwards settled in different portions of the State. In the vast and fertile regions of Lafourche, Attakapas and Iberville, they thrived and with their thrift, the country prospered and so steadily persevering have they been, that you cannot turn to any page in the history of our country, but you will find the names either of those very men, who were about to be driven away, or their children, or their children's children, figuring largely thereon. They have furnished us with our best citizens, and we have every reason to be satisfied with them wherever they have been called into the public service—and if I mistake not very much, the present governor is descended from that very class of citizens whom I have been describing to you.

The question then naturally arises, why are the Irishmen more dangerous than the Acadians? Why can't they thrive and prosper in Louisiana as they have done? The most of them have received in their native country a primary education, and that is more than the Acadians did—and we are not without examples before us, that they know how to buffet with the world as well as others, and therefore we see that many

have succeeded in their pursuits. They have therefore a common interest with us in the prosperity of the State and they have already furnished us two public men, who would and do compare favorably with any men in any country, Messrs, Judge Porter and Dick. It must therefore be apparent that in conjuring up of the phantom which they have, of the danger of 'Irishmen' it could only been done for the purpose of frightening us from our propriety of conduct, and bring us bound hand and foot by cause of our fears of raw heads and bloody bones, into their unjust and outrageous doctrines.

The President called Mr. MARIGNY to order for not confining himself to the subject under debate.

Mr. MARIGNY—I am in order Mr. President, I honorably conceive; for I am defending the privileges of 145,000 Irishmen—and sir if it be permitted in a criminal court, to suffer the attorney of the accused to rest his defence on what he conceives his strongest ground, surely it is not right to check me, in explaining in my own way the reasons which governs my action in this matter, and which I am willing to give and am trying in my own humble way to do. But sir, if any one here is dissatisfied, or displeased with what I say, why let them take me up and throw me out of the window. But if they do, that wont hurt me, for I shall be sure, while defending their political rights, to have some of the 145,000 Irishmen outside waiting to catch me in their arms.

The President remarked that he was neither displeased nor dissatisfied with Mr. Marigny for what he had said, but he must remind the gentleman that he was not speaking to the subject before the house, but was indulging us with the history of Louisiana, which was not the subject of debate now before the Convention.

Mr. MARIGNY hopes the President will pardon him for the length of his peroration but it was absolutely necessary to bring up the argument in its proper shape. He, will now endeavor to draw the inferences which he has laid down in the premises. The report before us has but one object, and that is, to secure for the country the political power of the State; to reduce New Orleans down to a fifth, on an unfair basis. That is the main question—and yet, sir, those who had the hardihood to propose it, had not the courage to confess it; no, not even to admit it in argument. Their talent was not to be found, because their courage failed them at the moment they wanted to use it, and why? They knew they had an unrighteous and unjust cause. Even the delegate from Ouachita, whose ability is so great, and whose imagination is so fertile, was yesterday more at sea than ever I have seen him. He seems as if he was groping about in the dark, trying to get hold of something to keep him up, no matter what, in support of his views of the matter now before us for consideration. He reminded him more of a flounder fresh caught and put into a tub, than any thing he could think of—first plunging this way, then that way, and all for the purpose of getting out of his false position, at the same time not willing to give his life without a struggle or two. But sir; badinage apart; let us examine how the question stands, and what are the arguments advanced. The main argument of the gentleman from Ouachita is this: that New Orleans ought not to make our laws; and, that if she got her *just* proportion, under this or any other basis, she was bound to do so. Now sir, how can that be, when with all her dreaded power, on the adoption of the new constitution, New Orleans will only have one eighth of the representation in the senate. It will be emphatically twenty-eight versus four, and in spite of all the dread entertained by country members, the governor will be, he is bound to be elected from the country. During the last thirty-two years under the constitution of 1812, we have lived and prospered—the country has prospered, if not more, at least as much as the city. And how many governors have we had from the city? One; and even he died at the end of two years. All the other governors were from the country parishes.

It is not, therefore, true that they have any thing to fear on that account. It is said the country is afraid of the city. This is a round assertion, but I can see no cause for it. The real cause lies deeper. The country wants to bind down and fetter the city, so that she, the country, may get her hands upon the treasury. It is of no use for country members to deny it—there is where the shoe pinches.

During the last twenty years, the legis-

lature have made appropriations to the amount of eight millions of dollars, out of which the city has received fifty thousand dollars for the Draining Company, one hundred Thousand for the Mexican Gulf Rail Road, and five hundred thousand for the Nashville Rail Rail Road; in all, six hundred and fifty thousand. All the balance, no less than $7,350,000, has gone into the hands of the country members, for their several constituents' interests, when ever and howsoever they saw fit to divide it amongst themselves.

Thus, then, let us blindly pass the section as it stands, and it is not very difficult to see the result. The city, which always has filled, and always will, (and they know it, every man of them,) fill the State treasury, is to be kept as the fat bird for them to pluck. The city will get nothing in the distribution of the public funds, and the millions which have yet to flow into the public treasury, will be as the millions heretofor squandered for useless and improvident efforts at internal improvement.

Is there any one here bold enogh to deny this? No, sir, there is not a man among them that dare to do it; and why? because the facts will stare him in the face, and give the lie to his assertions. The only answer that they have attempted to make is, that the city and the adjoining parishes have an identity of interest, and consequently would combine—that we should be able, here in the city, to control the votes of the parishes of Plaquemines, St. Bernard, Jefferson, St. Charles, &c., &c. Now, Mr. President, I had expected some more sensible reason than this to be advanced; I had hoped we should not have had this humbug and balderdash forced upon us; but as it has come, we must endeavor to meet it with the voice of truth, and with the weapons of truth; despite the learned, shrewd and wise delegate from Ouachita, Mr. Downs' assertions and arguments. Unfortunately for that gentleman, (much as I esteem him,) I am compelled to say that in the discussion of this question, and with his long experience, he ought never to have said, that we could bring over ANY parish, by giving them an appropriation of $50 to $100,000. It was an admission I had not expected to hear from HIS lips; because if so, he would thereby admit that he has his price.

And now, Mr. President, to the main question, which has been so much harped upon. What does the city want from the country? Nothing. What does the country want from the city? Everything. These are truths which they don't want to understand; but they are, nevertheless, true, whether they will or whether they wont understand them. Mr. President, disguise it as they will, and I desire in my expressions to give offence to no one, yet it is clear to my mind, that the country is dependent on the city. And if they are so in one sense, they should be also in a political point of view, and why? because they cannot do without us; either in the sale of the productions of their labor, or in the gratification of their love of pleasure. I am now, said Mr. Marigny, about to recur to the history of our country.

Having promised the country members to remove the seat of government from New Orleans to the country, some years since, (to give it a trial,) we consented to remove the sessions of the legislature to Donaldsonville; that was the decision; and the location was made there. Thanks to the delightful dreams of those days, for the future prosperity of Louisiana!! said the contractor, for he got $50,000 for the job of putting up a State house.

But what was the end of this scheme? The members of the legislature had scarcely assembled, ere they began to complain, and many even, it is said, *cried* with bitterness and mortification at being cooped up in so small a place. Every steamboat that landed was boarded by the legislature, almost in a body, to know the news "from town."

Each day was to them an unsupportable burden. Each night was fraught with ugly dreams, and each succeeding morning they would say: "I would not pass another such a night for all the world," &c., &c.

At last they all had a dream—it seems one and all were taken charge of by Queen Mab, and she clearly showed them the walls of the new State house were about to fall over their heads and crush them into mummies. Oh what a catastrophe! horrible indeed! You could not convince them to the contrary, and back they came to New Orleans.

I have not yet said all on this subject which I intended to say, and you must

bear with me, Mr. President, a few moments longer.

When it was decided to hold this Convention at Jackson, in August last—a retired spot, where people could be quiet and calm; where there would be a chance for reflection, &c. The members met, and the business of the Convention proceeded; but, day after day, it was painful to hear the complaints of members; first one thing and then another, did not please them; and it seemed that almost all had got tired of the place before they had been there a week.

For my part, Mr. President, I did not suffer as they did; I have a happy disposition, and am always satisfied, place me where you will. I found in Jackson many estimable people. I could always say some things that were new to them; and it was, and is always a pleasure to me, to have such friendly chats as I had with the citizens of Jackson. My leisure moments were, therefore, not as theirs; mine were contented and happy—theirs the reverse. I did not endeavor to keep an account of the health of the town—they did.

I did not complain of any thing; and yet these country members were complaining all the time. First: they said they had no books to refer to; second: they said they had no chance to get statistical information, and that both were necessary to carry on and complete the work confided to them by the people; and finally they got awfully scared; and although they did not say that they were afraid the house would tumble about their ears, yet they did say that they were afraid of the cold plague—and therefore it was a duty which they owed to themselved and the State to clear out, and go home as soon as possible.

Well, they adjourned, and to meet again in New Orleans. And now what follows? Here they are—that's certain; and a noble body they are—that's equally certain; but do you suppose that there is a man amongst them who has not something to attend to? some question of interest or pleasure on hand? I do not believe there is a gentleman present, who will ever doubt or deny it, that so long as there is any monies in the treasury to pay them, we shall hear no complaint. But would it not be well for them to enquire out of whose pockets it comes? No, they dare not ask the question; and why? because truth, honor and justice compels them to say that it is to New Orleans they have to look up for the supply of the very means they are now working upon; because she contributes more than two-thirds of the revenue of the State. The fear of the country members is, that New Orleans will, ere long, wake up, and refuse to pay the piper as they have heretofore done; and now they want to fasten us down QUIETLY, so that hereafter they may raise the cry of nullification, should we object. Even this ingenious argument will fail them; for I admit that it is ingenious. But, sir, Louisiana is too well known in her sincere attachment to the Union, I hope, for any such rigmarole to be forced down our throats at this late hour. But one thing I will say to the country members on this floor, and that is, that they will find it a harder task than they are aware of or anticipate, to fasten down 200,000 free American citizens, who have the same rights as they have, to their triumphant car—and to make that population their vassals. If they try it, they will find themselves mistaken.

If you want to be satisfied on that head, you have but to turn to the history of Switzerland, there they deposed the "Hudspeths" from power, who relied so much on their descent from Julius Cæsar. In Vienna they made light of the revolt; but they taught their *soi disant* masters that a people cannot, and will not be imposed upon without their own consent. Without leaving behind such restrictions, bitter regrets on their parts, as well for the principle itself, as in what the treasury will have to suffer to put it to rights. Turn whichever way you will, and you will find the same feeling, connected with the same principles. Look at the course of the people of the Netherlands, who successfully placed themselves in resistance to Philip II of Spain, a monarch who had at his control an immense army, *till then invincible*, and had, furthermore, inexhaustible resources from his rich mines in South America; yes, they resisted an odious tax, odious, moreover, because the right was claimed to tax the people according to their pleasure; and yet this simple people would not, and did not suffer such a tax to be levied from them.

But why should I call your attention to

the facts chronicled in Europe, when we have so many nearer home, that we can cite?

We all know that the day of our birth as a republic, was that on which we resisted an onerous and unjust tax. And yet you will, I mean you gentlemen of the country, contend that it is perfectly fair in you to dispose of one-third of the rights of two hundred thousand citizens, at your own will and pleasure; and that afterwards it is in your power and in your province, to rob them of that which they contribute to the support of the government; and what for? to enrich and improve the country parishes, at the expense of the city; to draw from the labor and the sweat of the citizens' brow all you want to enrich yourselves. Oh, it is a monstrous doctrine! and I marvel much, to see my friend, Mr. Downs, having any thing to do with such an unclean thing.

Some may say, and doubtless do, that there is no injustice in it; but have they examined the subject? If they have not, they had better do so ere it is too late.

Carry out your doctrine and you "out Herod Herod." Macheavel himself, could not have conceived a more odious one. Here is a people who make the State what it is; a people forming one-third of the population; who pay two-thirds of all that is paid into the treasury, in the shape of taxes. Yes, they are *taxed* two-thirds of the public revenue; and yet they are to be restricted in the right of representation, and to be cut down to *fifteen* against sixty-one, whom you plainly tell us, have no feeling in common with the city.

Once more I say beware! For our lalors here are in vain, unless you get the sanction of the people to your constitution; and from your present chance, that is more than doubtful. Is it not better, then, to take the basis establised in the constitution of 1812? The framers of that instrument were all good men and true, and knew the wants and situation of the country. We have now 7000 electors in the city, under the proposed course in the suffrage, they will reace 12,000. Take this report, however, and the constitution of 1845 never will be ratified; but if it be ratified, all the old jealousies and heart-burnings will be revived throughout the country. You will plant the tree of abolition in our midst, and planting ever it is it not sure to grow?

You will make unjust and onerous laws, burdening one portion of the people for the benefit of the other, which must end in resistance to, and refusal to bear the burden.

The great aim of gentlemen from the country seems to be to crush the city, and give all to the country; that you say, perhaps not in so many words, but by your actions, which speak louder than words, in curtailing the representation of New Orleans to one-fifth, and you thereby place the whole revenue of the State in the hands of the country. I warn you again that you must abandon your position, for it is based on injustice, and will be disastrous in its consequences if persevered in.

God knows I am not fond of turmoil or strife, and have a natural horror of revolutions. I have, it is true, had my fortune impaired, but not my reputation. Well, then, I tell you that if you persevere in this iniquitous scheme, I will not sign the constitution, and I will advise my constituents not to submit to the taxes you impose under it; for when I voted for the call of a Convention, it was done with a view of dealing out even handed justice to all; not to aid in any system that should cater to the avarice or cupidity of the minority. But should you do this, it cannot be said that I did not warn you of the danger. If you take advantage of your numerical force on this floor, and cast the torch of discord among our hitherto happy State, on your shoulders the odium and disgrace that will be attached to it will surely fall. I feel, Mr. President, that I have done my duty. I may not live to see the evil day, but at least when the people pass my grave, and read on the cold marble, the name of Bernard Marigny, they will say, "he foresaw and foretold in 1845, what has now come to pass. He did all he could to prevent it. Oh! that they had listened to his warning voice."

Mr. Conrad deems the section before the Convention is one of such high and vast importance—in fact, a section upon which most probably will be determined whether our labors here are to result in any thing; whether the constitution we are endeavoring to make will be ratified or rejected by the people; that he cannot give a silent vote on it, and must therefore trespass, but for a short time however, on the attention of the house.

Sir, said Mr. Conrad, when the report was laid on the table, I read it, and carefully, I assure you; but, sir, I am free to say that it was with regret, and I was disappointed and surprised. I do not desire, Mr. President—far be it from me—to question the capacity, intelligence, or the motives of any member of the committee; but I was disappointed because I regarded it as a perfect failure on their part, in performing the duty assigned them, and that they were entrusted with, which was to separate the difficulties that surrounded the question, and present us with a project brsed upon fair and equitable principles.

The debate upon this subject, when previously before the house, was lengthy; and finally, when we came to the conclusion to re-commit the subject to a new committee, that they might alter the whole frame and shape of it, and the more certainly to arrive at the desired end, we appointed one member from each congressional district on that committee. That was virtually instructing them that we desired to have the report made, and the project to be submitted by them, on totally different principles to the one we had so recommitted. How, sir, have they discharged that duty? Why, by retaining that very principle which was so odious in the eyes of a majority of the Convention. Yes, sir, they have retained the federal basis. On that question I have already said so much, in discussing the pernicious effects of that principle, that little more remains to be said on it now: in fact, I do not think one other word is necessary. Certain it is, that nothing has since been said in this hall which could change my opinion, or which can justify the members of the committee in the course they have seen fit to take. I then said, and I now repeat without going further into details, that the federal basis was not, and never would be the proper basis on which to frame representation. My reflections since then have more and more confirmed me in that opinion, and in the propriety of our course in rejecting the first report.

The principle is engrafted in the constitution of the United States, it is true, but that is no model for State governments. It was there inserted as a compromise, to conciliate and harmonize the different and conflicting interests of the North and South, and therefore can have no possible bearing on the making of a State constitution. It is true, they have cited one or two States where the principle is adhered to, but if they will look a little closer into the question, they will discover that it was the consequence of divisions in those States on the question of slavery. Thus, in the western part of Virginia, the inhabitants were in favor of its abolition; while those of the eastern and central portions of the State as tenaciously clung to that institution. In order, therefore, to preserve a proper equilibrium, they insisted on a guarantee, and that was found in adopting the federal basis. But who will pretend to say, that there is any difference of opinion as to abolitionism in Louisiana? There is not a single advocate for such a doctrine to be found here, and consequently we can have no motive on that account to engraft that basis on our constitution. Another gentleman argues that we should take that as the basis because the negro is property. I should not object to a basis founded on property qualification, but further, I think property is the proper basis on which representation should be made.

He (Mr. Conrad) much regretted that Mr. Beatty was not in his seat, for he had expected that the committee would have reported on that subject, among others; and he cannot but think that the committee, in referring to the federal constitution, thought more of the person of the slave than regarding him in the light of property. But suppose they had so regarded it, the report would not be the less defective, nor the principle they contend for less obnoxious, because one part of the State would be favored at the expense of the other.

In some parts of the State—as for instance in the piney woods, throughout the Florida parishes—there are few slaves, comparatively speaking; while in the rich, alluvial lands in the western portion of the State, they are very numerous. Upon the point of injustice alone, then, the report is defective; for if we are to assume the basis on a property qualification, to be fair and equal, it must be on all descriptions of property; that is, on real estate as well as slave property, and should be regulated by the tax list. The assessment roll would show what property a man was possessed of, and if property qualification be deemed

necessary, then all should be placed on the same footing.

It is of no use to endeavor to conceal the real though hidden motive of the section as reported. 'Tis said that murder will out; and if *we are to be slain*, why not come out and say so? It can answer no good end—no practical or beneficial result can spring from deception, or by keeping us in the dark as to your motives. All *your* differences of opinion merge into one, and that one is, *Down with the power of New Orleans!* Honor to those open and candid men, say I, who have had the manliness to admit that that is what they are aiming at. Why not say as they do, that the real object of pressing this section is to weaken the influence of the city? That is the real motive, and ought to be avowed. But, sir, if not admitted, it is nevertheless true; and it is unjust and oppressive, and the result cannot fail to prove disastrous to the interests of the State. It does not even contain one principle of abstract justice, and is calculated to create and foment jealousies not only throughout the whole city, but throughout the State at large.

He (Mr. Conrad) is not prepared to go as far as Mr. Taylor, when he says hat the citizens of New Orleans may hereafter, to get rid of one evil, choose the other, and prefer the abolition of slavery, rather than wear the galling chains of the country's oppression. But this I will say—I do say—and I want it proclaimed from the mountain's top—that this unreasonable and unjust principle which they are endeavoring to fasten upon the city, will undoubtedly tend to alienate the feelings of one portion of our State from the other; and that, if persisted in, and engrafted on our constitution, New Orleans will give the State no peace. She will never be satisfied until they come back to fair, honest and correct principles, and her citizens shall no longer be regarded *as aliens* by the citizens of the parishes. They will regard it as an indelible stain—a blot; and they will never stop till it is expunged.

But that is not even the most crying injustice of the report. They give to each parish one representative, without regard to its population. That is the report, rejected before, and sent to this last committee to re-model. It comes back in the same garb in which it went, and yet it is notorious that, during the first debate, the idea was scouted at and voted down, after a long, sharp and somewhat excited debate.

The best evidence that the new committee were not ignorant of what they were doing is, that Mr. Beatty admits that he and his colleagues took the decision of this house in its natural sense, and that was, that the committee should make such a report as they might deem most advisable; that is, however, duly regarding the sense of the Convention as expressed in debate.

But, sir, how have they discharged that duty? Why, by renewing the same identical, exploded and condemned proposition. They say, in extenuation of their course, that they must either disregard the implied instructions of the Convention, or look in vain for a proper basis; and without that important starting point they could do nothing. Gentlemen, let me respectfully ask you how it happens that, when the Convention told you, *as it emphatically did*, that you should not give to every parish a representative, unless its population entitled them to it, you, in the plenitude of your wisdom, determine to do it any how? You seem to find excessive pleasure in making your actions tally—by the rule of contrariness. The question, however, naturally arises: what makes you act so? Certainly not in obedience to the mandate of the Convention. No, that you have not the hardihood to reply.

Mr. Conrad now read several sentences from the report, and clearly showed that they had, in endeavoring to steer clear (as they said) of Scylla, run upon Charybdis; in other words, they had taken the matter into their own hands, and meant to sink or swim in supporting their own peculiar notions on the subject, with as much apparent show of sincerity as could be made to appear on the face of the transaction. But, sir, they have given you no reason, no argument, why they should place such an arbitrary rule as they have reported, on the city of New Orleans, in curtailing her representation to one-fifth of the representation of the State.

This is a new clause; it is not found in the original report, and doubtless springs from the fertile imagination of the gentleman from Lafourche, whose hobby it is to restrict and keep down the city. This is a more serious attack than it appears to be at the first blush; and why? because it

is singular that what should have been omitted by the first committee, who evidently had in view the restriction of the rights and privileges of New Orleans, should be supplied by this second committee; unless, they were still more hostilely inclined to the interests of the city. And no doubt the argument they used among themselves was, "pshaw! let the city go to the devil, provided we can only get the country to unite, and fasten her down forever." And yet these men talk of justice!

Let us suppose for a moment, that New Orleans may hereafter become as populous as London or Paris. Let us imagine that she will hereafter have four-fifths of the population, and that she will continue to pay three-fourths of the taxes paid into the treasury. What then will be the position of New Orleans with one-fifth of the representation? On what principle of justice can this be sustained? There is one thing the committee have done, which is sensible and truthful; they have struck out the word "equal," and it no longer reads, "representation shall be equal," &c.; but the reason why they were moved to accord to us this act of justice, is "in the deep bosom of the ocean buried," for certainly if they had any, they have kept it to themselves. They meet—decide,—rule things their own way ---make a representation to suit themselves, and never condescend to give us any reasons for what they have done. Not one particle of explanation do they give us. It is a great pity that those gentlemens' ideas of propriety were not more acute. And the more you study the question, the more you must be convinced that the whole movement is done to show their contempt and loathing of the city of New Orleans and her rights.

For many years, Mr. President, when I was a member of the legislature, I regret to have to say that I could not help noticing the jealousies exhibited by certain men. If for instance, the country called for an appropriation, and any of the city members saw fit to oppose it, they would raise the cry of "jealousy to the interests of the country;" and that cry afterwards became proverbial among the country members. But on the other hand, whenever any city member proposed a measure, asking any thing for the benefit of the city or parish of Orleans, the country members would and did always imagine, or pretend to believe that it would increase the power of the city delegation, and therefore opposed it. Such feelings as these do credit to no man or set of men, and more particularly do they not reflect any on the members of an august body like this, who may see fit to indulge in them. Why not then cast such feelings from us? He (Mr. Conrad) hopes this Convention will meet this and every other question that is to be discussed, and every principle to be settled, without calling to their aid a spirit of jealousy, or of ostracism. It must be borne in mind that when the spirit of jealousy existed against New Orleans, as I have before described it to you, that then she had but one-sixth of the representation of the State, and one-seventh in the senate.

Let us look back a little however, and see if this Convention or their committees have acted so far in a spirit of justice or in a spirit of moderation, or in a spirit of jealousy; and I was going to say, spiteful revenge for injuries never inflicted but imagined by the overwraught imaginations of the gentlemen from the country. The legislative committee reported that we should hold our elections here in the month of September! Every body agreed that that was unjust, and yet it was pressed upon us by the country members with much zeal, because then it was said the yellow fever would prevail, and keep down that dreaded hydra—the power of New Orleans.

Some wanted one time, to suit his section of country; others preferred a time when they should not be compelled to go to the polls on "a log," or a "dugout," and finally, to suit the views of the country members, and their constituents, the first Monday in November was agreed upon.

Now, sir, to show not only the cunning, but the abuse of power sought to be forced on us by the committee whose report we now have under consideration, I call your attention to the fact, that with a perfect knowledge that universal suffrage is to prevail, they recommend that each parish shall have one representative; no matter how many residents calling themselves white, may reside therein; they further recommend that the city of New Orleans should be divided into three districts, or municipalities, (of course to paralyze as much as possible her political power,) for

it was doubtless that which influenced the delegate from Lafourche to introduce such a report as he has. And what is to be the result of this proposition? we shall have three classes of citizens: 1st, favored citizens—2d, citizens tolerated—3d, citizens oppressed; and those of *the third class* will necessarily be, under the new arrangement, the city of New Orleans.

The great prerogative of the people in all free governments, consists in the taxing power; to lay the tax; appropriate the same, and finally to raise future revenue. It was that which led to the revolution in England. It was that which led to the first French revolution, and its consequent horrible scenes. And it was that which led to the declaration of our own independence, and therefore I reason that we should endeavor so to shape our course as to steer clear of all the difficulties we have had presented heretofore to our minds. What security I ask should we have against the abuses which the country members may inflict upon us, if this basis (federal) is established. Is it right that a minority shall have the power of taxing the majority? If so, let some of the gentlemen get out their democratic dictionaries and explain it.

The legislature then, with that principle established, will be able to tax you *ad infinitum*. First, they will tax your property; second, they will revive that odious measure by laying a tax upon *some* property, while *some other property* will be screened in the country from the payment of any tax; third, those brokers who were regarded by the legislature in a moment of excitement as public nuisances, have to pay $250 per annum for a license to pursue their avocations. They might as well have carried the ridiculous doctrine out, (for such an idea as that practised as it is, is a shameful proceeding) and made it $1000, then made a law that he who earned $500 over and above his expenses, should pay that also into the treasury, (provided he lived in New Orleans) in order to make the burden lighter on the wealthy planter in the country. Wherever we find inequality of representation, there we find one class of the citizens taxed for the benefit of the other class, who has the advantage of such extra legislators.

Mr. Conrad trusts that every thing like inequality will be discarded by this Convention; that no steps will be taken, nor any action had by them but on the broad principle of equal justice to all. He had seen with regret some of the country members appear to have been seized with a kind of indescribable fear whenever you mention New Orleans. They seem to regard us as a monster whose ravenous appetite is never to be satisfied till we have swallowed up every thing between the Balize and the Sabine river; of course taking in Red river and the Ouachita country. And they think the only way they can muzzle the huge animal, is to catch him while young, and gag him at once. But, Mr. President, is this the right way for men, who call themselves sensible, and for the most part doubtless are, to meet a grave question like this? I do not, sir, (said Mr. Conrad) appeal to the magnanimity of members, but to their sense of justice. I tell them they do not meet this question in the proper spirit, or if they did they never would commend so palpable a political outrage as they are now called upon to do. I will not appeal, sir, to any thing but their sense of justice, for be assured, that if the people see any disposition manifested in this Convention to rob the many of their rights or privileges for the benefit of the few, the constitution never will be ratified.

The President laid before the Convention a letter of invitation from the fire department, asking their co-operation in celebrating their anniversary on the 4th of March, which was accepted.

Mr. Penn moved that the debate on this subject should cease, and the vote be taken on Wednesday the 5th of March, which motion was agreed to.

Mr. Voorhies then moved an adjournment until to-morrow at 11 o'clock, which also prevailed, and the Convention adjourned.

Friday, February 28, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened by prayer from the Hon. Mr. Stevens, delegate from Sabine.

Ordder of the Day.—The Convention resumed the consideration of the Report of the special committee upon apportionment. The question pending being the motion of the delegate from Lafayette (Mr.

O'Brian) to strike out; under discussion when the Convention adjourned yesterday.

Mr. Roselius, I will postpone the remarks I intend to offer, if any gentleman in favor of the report desires to address the house.

No one having responded to the invitation, Mr. Roselius said. the first thing that struck him with astonishment in the report of the special committee was the disappearance of the principle enunciated in the first report, of equality and uniformity in representation. That great and fundamental principle was consecrated in the old constitution. Was it the intention of the Committee by exchanging it, to deny its truth? Did the gentleman on the committee come to the conclusion that representation ought not to be equal and uniform? If they have, said Mr. R., I should feel indebted to them if they would favor me with some explanations why and wherefore this important principle should be departed from. Surely, surely, nothing has been urged or can be urged why this great and all pervading political principle should be abandoned.

Is it necessary, asked Mr. Roselius, to recur to the fundamental principle of representative governments for the purpose of establishing this great truth---from which we cannot depart without endangering, nay without overthrowing the whole fabric upon which our free institutions are reared. Is it necessary to recur to those original principles, for the purpose of shewing the pivot upon which those institutions turn, the very corner stone upon which they are based. It would be trespassing upon the time of the house to do so. The discussion upon the question would be trite. It was self evident, and therefore with amazement I find the principle exchanged, obliterated from the report.

The first and all pervading principle of a representative democratic government is, that all the citizens of the political community were entitled to an equal participation in the political rights conferred by the social compact, to deliberate together and to decide upon the measures of public policy that were most expedient and proper. Such an immediate and direct expression of the will of the members of the community contemplated a limited extent of territory and a limited number of persons. But, what was the expedient devised to obviate the impracticability of assembling all the people, scattered over a wide extent of territory together, and obtain the expression of their individual will. Representation was employed to effect that object, and consequently it is apparent, that representation should be in strict conformity with a settled ratio based on the number of persons belonging to the political family that have a right to representation, or in other words to be heard in the decision of all political questions that may arise. No wonder, sir, I was amazed, thunderstruck, to find that great political principle obliterated, and no wonder I should feel great anxiety in the course that this Convention may ultimately pursue.

The honorable members that have participated in this debate in support of the propositions in the report, have not condescended to give us their reasons for the abandonment of the principle, that representation shall be equal and uniform. They have not favored us with any argument in relation to that point. If they have I have not heard it. I have heard much discussion, much eloquent declamation, but not a single reason advanced. I have listened in vain to hear any thing assuming to justify this house in laying its hands upon the fundamental principle of our social fabric, upon which the safety of the country materially depends—the great pillar which sustains the political edifice.

The gentleman from Ouachita, (Mr. Downs,) to my utter astonishment, I must confess, declares that there is no such thing as an equality of representation; that it is a chimera, a wild delusion. He says farther, that the idea of equal rights is an absurdity: That they are beautiful theories, but impracticable in practice. Is it come to this? And do we hear it urged in this body—the sad conclusion avowed in this assembly, that the beautiful system of government, that we have the happiness to live under, is a mere chimera—a mere stretch of the immagination—nothing more than a fancy sketch—without any thing solid—without any thing tangible to rest upon! If this be so, methinks our labors will be in vain. It were better we should at once disperse. Unless equality of representation and equality of rights be tangible things—be real and substantive, our labors cannot conduce to the advantage of our constituents. I boldly and emphati-

cally deny the truth of that gentleman's proposition. I say that the assertion is destitute of foundation, and is not sustained by the practice or the experience of our government. I say that the experiment in the United States, have established beyond a possibility of a doubt that there are such things as equality of rights and equality of representation. That they are not only feasible, but that they are the only foundation upon which a republican government can rest. Away, then, away, then, sir, with the idea that there is no such thing as as equality of rights and equality of representation. It is not true, And if it be true, and they are, indeed, mere immaginary things—mere utopias of excited fancy—it is better we should not waste our time and our labor in filling seats in this assembly. If we take that as the argument of the gentleman that would despoil the city, that would shear her of her political strength, it is not a good argument; it is no argument at all! So far from authorising a departure from the fundamental principle of equality and uniformity, it proves nothing. It has no foundation. It is contradicted by the experience of mankind. This same principle, which has been questioned in this body—which has been deliberately pronounced a mere chimera, is spreading over the world—is gaining ground over the universal world!

The reasons that have been given for restricting the city in defiance of all principles of equality and uniformity were unworthy of the dignified and liberal members that composed this assembly. To use a happy expression of a member—it was unworthy of the fathers of the State. The people have confided to their representatives here, the important trust of reorganizing the organic law of the State. Petty feelings and local jealousies should find no place in this hall. Such an assembly convened for such a purpose should not be actuated by sectional feelings and petty strifes. No one portion should be agrandized at the expense of another, but equal justice ought to be meated out to all alike.

From what has already taken place in reference to the subject now under consideration, I begin to fear that there is a premeditated design to sacrifice the city of New Orleans and to believe that there is alas! but too much truth in the remark of an honorable delegate, that the doom of the city of New Orleans is about to be pronounced, and that she is to be put under the bow of a majority of this house. Let us examine into the facts. It is incontrovertible that there exists a settled determination to disfranchise the city, not only by adopting a basis unfavorable to her just representation—but by subjecting her to the penalties of a proviso. The obvious tendency of the adoption of the section as reported, will be to confine the representation of the city to fourteen members—excluding one member allowed to the right bank of the river, in the parish of Orleans. If the basis of elector were assumed for the representation, according to the data furnished by the committee, the city of New Orleans would be entitled to forty-seven members. Now, sir, there is a striking difference between the forty-seven members to which the city would be justly entitled, and the fourteen that is conceded to her by the restrictive system of the committee. What would be the number to which the city would be entitled taking population generally as the basis? She would have a right to not less than thirty-four. But let us go on one step further. What would be the result if the federal basis were adopted? From the same data furnished by the committee, it appears that the city would be entitled to twenty-three representatives. Yet we are proscribed in the report to fourteen!

The two measures proposed by the committee in their report, are aimed directly at the city of New Orleans. They can have no other tendency than to diminish—do I say diminish—to destroy the just and equal proportion of the representation to which the city is entitled. To smother the voice of the city—to disfranchise her—to deprive her of her political rights. It cannot be with any other design. In fact the design is openly avowed! One of the eloquent gentlemen attempting by the force of his logic and in the fervency of his fancy, to reconcile the city to this most iniquitous measure, tells the city delegation, tauntingly, that they should feel thankful for retaining one-fifth of the political power. I think (says the gentleman) that this is a great deal too much, but through complaisance, with the view of drowning your clamors, I will accede to the proposition that you retain one-fifth. Wondrous magnanimity!

I know nothing, said Mr. Roselius, to which this boast of excessive generosity can more appropriately be compared than to the vain boast of a highwayman who after robbing you of your purse, in a fit of magnanimity, tosses you a few coppers to bear you on your journey. There is no difference as to the principle. You have no more right to despoil the city of New Orleans of her just political rights than the highwayman has to empty the purse of the traveller. In both cases it is might—not right. In both cases, it is power—illegal—unholy and unrighteous power. What right has this Convention to say that a man because he chooses to fix his abode in the city should have less political weight than a man who chooses to settle in a country parish—that a citizen of New Orleans shall have less political weight than a citizen settled in the swamps of Catahoula or in the wilds of Ouachita? Is there any cause of incapacity about the citizen of New Orleans that renders him morally inferior to a citizen of the country? Why should he not participate equally in the common privilege of representation? Has he committed treason against the State because he happens to reside in the city? Is he guilty of felony—what high misdemeanor is he amenable for, that he should be stigmatized as unworthy of equal political privileges? It may be that the citizens of New Orleans have less intelligence than the inhabitants of the country—that the standard of intelligence is not in favor of the city. Has the city less virtue? What offence has its citizens committed that they should be punished politically? Surely there must be some political offence, or else they would not be curtailed of their just rights!

I have not heard gentlemen advance anything of that sort against the city.

But, why should we adopt the representation based upon federal numbers, as it is called? Why incorporate slaves into the basis of representation? One gentleman, a friend of mine, whose motives are as pure as those of any member, says that they should enter into the basis, because Louisiana is a slaveholding State—that slaves are persons—that they have rights which ought to be protected. This language appears to me to be somewhat extraordinary, in a country where slaves are counted as wealth—as property—that they ought to be heard in our councils, and should be taken into the constitutional apportionment of representation to which their masters are entitled.

We must concede one of two things; either slaves are property or persons, politically speaking. I do not pretend to argue that in a moral sense they are not persons, but according to the political condion of things in the State, and as forming an exclusive portion of the population of the State, they cannot be considered politically as persons. Suppose a representative government, a pure and unlimited democracy; some such unlimited democracy as Athens, Sparta, or Thebes existed here, under the peculiar form of that species of government, would the slaves be allowed to participate! Were the Helots called in to deliberate, to cast their votes? No! Would our slaves be allowed to deliberate among us if we were living under a pure democracy? No! How, then, can it be pretended that the slave population should enter into the basis of representation? Why not own the purpose openly, that this unjust, arbitrary rule is introduced to destroy the political rights of New Orleans. That basis can be maintained on no other grounds. But it is said that it is proper because it is found in the federal constitution! This argument can only be employed with the view of provoking an idle and useless discussion. Do those that advance it really believe it possesses any weight. Do they think us so ignorant—so unmindful of the history of the country to be deluded by it! Once before it was introduced in the progress of the debate. I protest against any such argument. Are we here deliberating a compact to unite different States under one government—States among some of whom slavery exists, and among others where it does not exist; are we here for such a purpose? The federal basis in the constitution of the United States, was a compromise. It is notoriously nothing else! Here we have assembled for no such purposes, and under far different circumstances. We represent but one people, interested in the same institutions, the same laws and the same customs, and I hope to God, animated by the same feelings; and having a single eye to the public good, and whatever is promotive of the interests of every section.

To recur again to the circumstance of

the compromise upon representation in the federal constitution. I presume—I take it for granted that others are as familiar with the circumstances that led to it, and probably more so than I am. They must concede that there is no analogy between the two cases. Not the remotest. How could there be? In the one case thirteen independent States, having different laws, different customs, and in some respects, different feelings, were about to form a more perfect union, for national purposes. Here we have assembled for the purpose of form a constitution for one people. But we are told that this basis predominates in the slaveholding States. I regard that assertion as not well founded. So far as it is founded upon the constitution of Virginia, it is a mistake. The great question in the Virginia Convention was, the basis of population—of qualified voters, and a mixed basis of qualified voters and taxation. It is true that federal numbers were adopted finally, but they were adopted by the legislature of Virginia, and not by the Convention. Locality has been alluded to as a proper element to enter into the basis of representation. I am willing to subscribe to the expediency of this suggestion. Population alone I do not think forms a proper basis. Any measure having in view a mixed basis—property and population, or taxation and qualified voters, would be preferable, but the majority have decided differently. So far from entertaining the idea of placing the basis according to population, gentlemen say that a particular kind of property should be preferred. They say slaves should be represented—and are in favor of a mixed basis composed of population, and exclusively of slave property. If slaves be adopted because they are property, they are the most unstable and least permanent kind of property. Why not adopt other property?—Real property? Why confine it to slaves?

If we recur back to the course of proceedings from the very beginning, we shall find that the motive is to aim a fatal blow at the city. It is to diminish what we are told is her overshadowing influence. She is to be stript of her political privileges, and to be laid prostrate. And why is the city to be proscribed and her power annihilated? Because, says one gentleman, (Mr. Downs) the hero of Marengo discovered and acted upon the principle that masses were irresistible on the field of battle, and inasmuch as the population in the city have better opportunities of congregating together and meeting in council, than the inhabitants of the country, that are more isolated, and are dispersed over a greater extent of territory, therefore New Orleans shall not be allowed to exercise the power that legitimately belongs to her! It seems to me that the very converse of the proposition would be true. In order that people should act wisely and prudently, they ought to have the opportunity of consulting together, and of communicating their ideas with each other. The more facilities they possess of interchanging, the better qualified they must be for the proper discharge of their duties as citizens, and to select proper agents to whom they may commit the political powers of the government.—Whereas, if the citizens are dispersed over a wide expanse of territory, communication becomes difficult, if not impossible; they have no opportunity of interchanging opinions; there is no discussion to enlighten them; there is no harmony among them. It strikes my humble conception that the consideration of compactness, and the facility of consulting and counselling upon any emergency, so far from disqualifying the citizens that possess these advantages, it should be an additional reason why they should exercise their political power and be heard equally with the rest of the community.

But, sir, we are told that the people of New Orleans will possess the ballance of power. If the mass of the citizens of the State are congregated here, why should they not exercise their just proportion of political power? If they settte in New Orleans, it is because it is to their advantage. Because they find it to their interest to do so. But is the mere circumstanco of their locality—of the place where they may cast their lot, to deprive them of their political rights? Is there any justice, any reason in this? New Orleans is to be despoiled of her just representation; but it is not to be lost. It is to be filched from her and transferred to the fourth congressional district, which has not, from its remoteness, a particle of identity or sympathy with her. The moment that the combined forces of the country have succeeded in reducing us, in

taking from us our rightful portion of political power, it is quite likely they will begin to squabble among themselves as to the distribution of the spoils! That will be the next difficulty.

Is it not more becoming not to depart from the paths of justice—not to introduce an arbitrary rule—a flagrant and unjust principle directed towards a particular portion of the citizens of the State?

Mr. Roselius said, that although this discussion had occupied a great portion of the time of the Convention, he was unwilling to listen to the peculiar line of argument addressed to the house by those hostile to a just representation to the city, without making a reply. The question involved was too vital. It struck at home, and its terrible effects upon the constituency, that he had the honor in part of representing, induced him, although in a feeble state of health, to raise his voice to prevent, if possible, this crying injustice from being consummated.

He presumed that the new constitution would be submitted to the people at large for their ratification. Few, if any—if he were not mistaken—were favorable to the idea that the constitution should go ino operation without having first passed the ordeal of public opinion. If there were any so disposed, they would be assuming a fearful responsibility by attempting to force the constitution upon the people. He apprehended that the course to be pursued would be to ascertain whether the constitution was acceptable to the people. If he were right in that view, was it to be expected that the people of New Orleans would vote for ratifying a constitution which outraged every principle of justice, as far as they were concerned; that they would be so lost to a proper sense of the injury as not to resent it by repudiating indignantly the instrument in which they were stigmatized and excluded from a just participation of political power common to the balance of the State. Let not gentlemen lay the flattering unction to their souls, that the reflecting citizens of New Orleans, as has been stated, will be satisfied after a while. This notion, if entertained, is a gross delusion, and those that entertain it know nothing of the character of the people of New Orleans. Before this issue all party distinctions will cease. Not a single vote in the city will be cast in favor of a constitution which contains so infamous a proposition. The city will be united in its resistance, and will have the sympathies and voices of the country who are not insensible to the dictates of justice. This constitution, with such a principle, will never be sanctioned—never! never! never! In common parlance, the delegation from the city will take the stump in opposition to its ratification, and will point out its gross and flagrant injustice. They will appeal from the decision of this Convention to the decision of the people.

Mr. Voorhies called up the resolution offered on yesterday by Mr. Penn, viz:

Resolved, That Wednesday, the 5th of March, at one o'clock, be and the same is hereby fixed for taking the vote on the apportionment.

On motion of Mr. Porter, said resolution was laid on the table indefinitely.

On motion of Mr. Downs, 2½ o'clock this day was fixed for the taking of the vote on the apportionment.

The 7th section, as reported by said committee of 12, was then called up, viz:

"No new parish shall be created with an extent of Territory less than four hundred square miles, nor with a population less than the full representative, nor shall any parish be so divided as to leave it with a smaller area or population than is above expressed."

Mr. O'Bryan offered the following as a substtute for said section, viz:

"Each parish shall have one representative, and beyond that, if entitled to any more, in proportion to the number of voters in each; *Provided* that no parish or city shall ever have more than one sixth of the whole number of representatives."

On Motion of Mr. Grymes, the section and substitute were laid on the table, subject to call.

On motion of Mr. Porter, the rule fixing half past two o'clock to-day, for taking the vote on the apportionment, was rescinded.

Mr. Downs said it was not his intention to have taken up the valuable time of the Convention by offering any remarks. He was drawn into the debate by the attacks that were made upon himself and the other members of the committee. He had waited long to see whether any other gentleman from the country would rise to repel

the reflections indulged in by the gentleman that represent the city, but as no one had done so, the duty devolved upon him.

I have heard nothing, said Mr. Downs, to shake my conviction in the expediency of adopting the federal numbers as the basis of representation. I will not therefore add any thing to the arguments I have already adduced upon that point. I think these arguments are irrefutable.

I will now proceed to examine the proviso reported by the last committee, which has also given rise to some severe animadversions. The original report created a great deal of dissatisfaction on the part of the delegation from the city—and particular complaints were uttered against the 4th congressional district which was held entirely responsible for the character of that report. Its assumed injustice and partiality were made the pretext of referring the subject to another committee, whose opinions it was confidently predicted would be of an opposite character. But now, that the last committee have acted, the same gentlemen are in no better humor; and so far from considering their situation as being bettered they seem to think that they have fallen from the grid-iron into the fire! I really think the gentlemen would have consulted their interests quite as well had they avoided the particular mode of arguing that side of the question—and not have attempted to domineer over the country, by violence and threats, and by the employment of epithets calculated to wound the feelings of that portion of the population of the State, residing in the country.

One gentleman from New Orleans spoke of the country as being habited only by reptiles.

(Mr. Roselius. I referred to the uninhabited portions of the country. I certainly did not intend to apply the term to any portion of the people, and I cannot understand how the gentleman could so construe what I said.)

Mr. Downs: another one of the gentlemen from the city, assumes that whether a country parish have a representative or not, is a matter of perfect indifference. It may be so to the genileman, and I have no doubt that it is, but the matter is quite different to the parish herself. Her representation is as essential to her as the representation of the city is essential to the city, and perhaps more so; for New Orleans being the seat of government, without any delegation in the legislature, would have sufficient political influence to protect and promote her local interests.

(Mr. C. M. Conrad: The gentleman mistakes my remark. I said that it was a matter of indifference whether a small parish was represented distinctly, or conjointly, with another parish of similar dimensions. Their interests were identical.)

Appeals have been made to the city to reject the constitution, unless the country be willing to divest herself of political power, and transfer it to the city; and we have been told, that if the country did not concede this to the city the constitution will be rejected. Such a resort would be unfortunate indeed; but I entertain no fears that if the constitution be rejected, it will be on that ground. The citizens of New Orleans will see that they are allowed one fifth of the members in the house of representatives; and that so far from this allowance manifesting an illiberal and contracted spirit on the part of the country, it is a fair proportion, and is in accordance with the ratio that has been allowed to the city from the formation of the State government, with trifling variations.

From my examination into the subject, said Mr. Downs, I find that according to the apportionment of 1812, New Orleans had four out of twenty-four representatives. In 1826, according to the apportionment of that year, New Orleans had seven out of fifty representatives, being about one-seventh; and in 1841, the period of the last apportionment, the city was allowed ten out of sixty representatives, being one-sixth. So there is but little difference in the amount of her political influence for the last thirty-two years, and it cannot now, with any truth, be said that there is any disposition improperly to curtail her influence, and to deprive her of any portion of the weight to which she has heretofore been entitled.

In conceding to New Orleans one-fifth or one-sixth of the representatives, by reason of the concentration of her population, she will possess a formidable power. If, in addition to their advantage of concentration, she retains the seat of government, her influence will to a considerable extent mock the legislation of the country. We have

the political fact of a section of country in the United States without a representation, having her interests as carefully watched over, and her wants and wishes responded to as fully as if she actually was in possession of a numerous and active delegation. He (Mr. Downs) alluded to the District of Columbia.

So far from there being a disposition to oppress the city of New Orleans and to act with severity towards her, our legislation is constantly making exceptions in her favor, and it may be said that a separate body of laws have been made exclusively for her convenience and the development of her interests. It is true, that her position as a great commercial city requires, in a great measure, the adoption of different principles; but independent of that consideration, the utmost latitude is allowed to her representatives. Why, it was only this morning that this spirit to accommodate the city was strikingly manifested, as it is almost daily in the proceedings of the legislature. The city of New Orleans was exempted from the provisions of the fee bill, on the motion of the senator from New Orleans, in the senate, where she has but a single member. When an increase was made in the apportionment, it was principally on her own account and for her benefit, for her proportion of increase was greater than allowed to the balance of the State. Eleven members had been conceded to her, but upon an examination of that apportionment, it was found that one of the parishes was omitted, and on the motion of a distinguished member of the senate, now no more one member, was taken from the city and given to the parish that had been omitted.

But say the advocates of those that favor a monopoly of political power on behalf of the city, the city pays the greatest amount of taxes and therefore ought to have the preponderating influence. I contend there is as much error in this assertion as there is in others that are so lavishly made to sustain the unreasonable pretensions of the city. The total revenue of the State for the year 1843, according to the treasurer's report, is $345,730, of which New Orleans contributes $65,483—leaving a balance of $280,247 in favor of the country; and which shows that the city pays about one-fifth of the taxation. Taxation, too, then it seems, tallies precisely with the representation accorded to her of one-fifth. To this amount of $65,483, those who attempt to sustain the assertion that New Orleans pays the greatest portion of the taxes, would add the amount of revenue derived from auctioneers and upon certain professions. But I contend that this amount is not derived from the city. It is derived and is a tax upon the people of the country—it is they who pay it. Who fill your boarding houses but transient persons who have, in fact, to contribute the tax upon those establishments? The same remark will hold good to the tax upon auctioneers, for whose produce is it that is sold? It is true that the tax is collected in the city of New Orleans, and upon that is raised the superstructure that it is she that pays it. I contend that it is no more the city of New Orleans that pays it, than that she pays the millions that are collected in duties at her custom house. The city of New York once raised a similar pretension, that she was entitled to great favors because her custom house contributed the greatest portion of the revenue derived from imposts. But to this pretension Mr. Jefferson appropriately replied: why, then remove the custom house to the opposite side, and it is there then that these duties will be paid.

A great deal has been said about the board of public works; it is pretended that all the expenditures it entailed were for the country. But who after all enjoyed the benefits of these improvements? It was the city of New Orleans. It opened to her new business, and augmented her commercial wealth. The whole amount of those expenditures amounted to $540,053. They were, in fact, more for the benefit of the city than for the country, but placing them entirely to the account of the country. What have we on the other hand to balance those appropriations? Let us look at the amounts appropriated to the city.

For the draining company,	$50,000
Charity hospital,	225,000
N. Orleans and Nashville R. R.,	500,000
Mexican Gulf Rail Road,	100,000
	$875,000

Here we have $875,000 to offset $540,053 appropriated to the board of public works. In addition to this there is an annual appropriation to the Charity Hospital of $15,000. This item of the Charity

Hospital is nearly sufficient to offset the appropriation to the Port Hudson rail road. Hence it may be inferred upon what an unsubstantial basis rests all the declaration that the country is hostile to the city and wishes to monopolize the treasury to herself. But this is not all; the city comes in for several other largesses. As regards the Charity Hospital—far be it from me to regret the liberality of the State,—I have invariably voted for these appropriations and invariably will vote for them, because that institution is an honor to humanity—its doors are thrown open to the unfortunate and the needy, let them come from where they may. But I allude to these appropriations to show that the country is not niggardly and illiberal towards the city. It would be convenient for similar institutions to be established and sustained by the bounty of the State, in the country, where poverty and wretchedness are not even known, although limited in their extent, when compared to the city. But yet nothing of the kind has been attempted in order not to divert a single dollar from the institution in the city. The imposition of taxation, too, said Mr. Downs, bears with greater severity upon the country than upon the city. The tax upon slaves applies to all slaves, old, young, worn out, and decripit. It is not the effective force that is taxed. The planter, work as he may, is scarcely able to make the two ends meet, while the merchant that sells his produce is taxed only something like twenty dollars for all his transactions. Examine the list of bankers and capitalists, and you will find that they are wielding millions of capital and realizing the interest without paying one dollar of tax upon that capital. A termination ought to be placed upon the heavy burthens imposed upon the country. The people, although groaning under it, have got accustomed to it, as usage establishes precedents with as much force as written law. Hence it is, we find that although the States are expressly prohibited from issuing bills of credit, still custom has established it so completely that there is not a court of justice that would pronounce the issues of a bank illegal. And how did these institutions come among us, and for whose particular benefit were they created? They were created for the city, and it was not until the bank fever raged, that the country was propriated by the establishment of branches.

In addition to all the other advantages enjoyed by the city from the patronage of the State, Mr. Downs instanced the preponderance of public offices in the city—the preponderance of the judiciary in the city. New Orleans was the residence of the principal public officers of the State, and was the recipient of almost all the money drawn from the treasury to meet the current expenses of the government.

Mr. Downs, in conclusion, disclaimed the slightest feeling of prejudice against the city. It was an unfounded assertion that the country was jealous of the city. No such feeling was entertained, as he conceived he had abundantly shown in this debate. For himself, he was proud of the city as the metropolis of the south. He wished her to thrive and to flourish. But at the same time the interests of the country ought not to be sacrificed. The course recommended by prudence and sound discretion, was to give the city her just relative weight, without committing the destinies of the country into her hands. Was it perceivable that the onward career of New York, Philadelphia and Baltimore were impeded by restricting those cities in their representation. Such had not been the consequence, and it would not be the consequence here.

Whereupon, on motion, the Convention adjourned.

SATURDAY, March 1, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WATKINS opened the proceedings by prayer.

The Convention, in the absence of other preliminary business, proceeded to the

ORDER OF THE DAY.

SECTION SIXTH—ART. —.

Before proceeding with the debate,

Mr. President: said Mr. CHINN, I conceive, with so small a number of members present, we ought not to proceed with such an important debate as the one we have before us; and therefore I propose and move that the further consideration of it be postponed until Monday.

[Several members came in while the honorable delegate was making his remarks, and as he perceived the house had

become ordinarily full, he withdrew his motion.]

Mr. Mayo took the floor. He was, he said, desirous to say a few words, to enable his constituents, as well as the Convention, to understand the reasons for the vote he should give upon the present question. I am in favor of making the duly qualified electors the basis of representation. The Convention has, by the section which it has adopted upon the subject of suffrage, decided that all free white male citizens above twenty-one years of age, who have resided two years in the State and one year in a parish, shall be permitted to exercise the rights of electors, and by that provision have entrusted to those persons, and those only, the exercise, in the first instance of the sovereign power of the people. In other words, we have delegated to the electors the political power of the State. It appears to me, that an apportionment of representation based upon voters will be likely to be more permanent, and less likely to fluctuate, than any other that has been proposed, and for that reason more just. Notwithstanding my preference for the electoral basis, however, sir, I am induced to vote against striking out the clause which provides for the federal basis, which I understand has been proposed and reported by the committee as a compromise. I fear the consequences of striking out may be as they were found to be on another occasion, when it was proposed to strike out ten years —the term of residence required by the report of the committee on the executive department, to qualify a citizen to be eligible to the office of governor. I then voted against striking out *ten*, notwithstanding I was in favor of a shorter period; fearing that if it were stricken out, the blank would be filled with a number less acceptable to myself and the friends of a shorter period than ten years. When the question was taken on striking out "ten," almost all who desired a shorter, as well as those who desired a longer period, voted to strike out. Ten was stricken out, and the consequence was that the blank was filled with fifteen, which, I am induced to believe, was less acceptable to a majority of the Convention than ten would have been. My reason then sir, for voting against striking out, is not that I prefer the federal basis; but because I fear that if that basis be stricken out some other may be inserted that will be less acceptable to me than that which it is proposed to strike out. If all who prefer the basis of electors, as well as those who prefer the basis of the whole population, white and black together; those who prefer the whole white population and those who prefer the basis of all white males over twenty years of age, vote to strike out, the clause will certainly be stricken out, and it is impossible to conjecture what will be inserted in its place. The federal basis has much to recommend it. A portion of the rights of persons are extended by our laws to slaves. They are by law protected in their lives, and from cruel treatment from their masters, and to that extent are recognized by law as having, in part at least, the rights of persons. This reasoning, by which an increase of representation on their account is claimed, has some degree of plausibility, as well as that by which the increase is claimed on the ground of their being property, which some think should, in part, form the basis of representation.

The argument upon the question of striking out the federal basis has been very discursive, and has embraced the question of restricting the representation of New Orleans. It does not appear to me that the question of restricting the represention of the city has properly anything to do with the present question, for I believe and hope it is intended to limit its represention to a less number than it would be entitled to under any ratio of apportionment that has been proposed, that is, less than would be apportioned to her by a regular division on the basis of voters—the federal number, or any other basis proposed. But as the question has been debated as though the question of restriction were now really before us, I will follow the example set by others, and reply to some remarks that have been made, and will here observe that I shall not say anything with an intention to give offence to any one, that I entertain feelings of respect towards the delegation from the city, as well as towards the city itself.

The member from New Orleans, (Mr. Roselius) who addressed the Convention yesterday, expressed the utmost astonishment that the last committee that reporte upon the subject of apportionment, should

have *expunged*, as he termed it, the principle of equality and uniformity of representation, which are contained, he informed us, in the present constitution. The words *equal* and *uniform* are contained in the present constitution, but the *principle* of equality and uniformity of representation are not to be found in it. Great alarm was manifested at the disappearance of the words *equal* and *uniform* from the report, and we were told that by obliterating them from the fundamental law, we were laying sacriligious hands upon the constitution: that by departing from the all pervading principle of *equality* and *uniformity*, the whole fabric upon which democratic government was based, would be overthrown. I confess sir, that the use of the terms *democratic principles* always affords me pleasure when I have a hope that those principles can be put in operation, and pain, when accompanied by the reflection that they must be violated. The words equal and uniform, it is true, are used in the section of the present constitution, upon the subject of representation. It is also true that they are only used in that instrument to be violated; for that constitution provides for a representation in the senate most unequal and unjust, and entirely disproportionate to the number represented. However well the use of these terms may suit others, I do not desire to see them used in the constitution we are framing, at least not in the sense in which they are used in the present constitution, to define anything relating to the apportionment of representation, because their meaning is vague, indefinite and incomprehensible. What do they mean in the present constitution, or what will they mean if inserted in the section under discussion? Representation shall be equal and uniform. The use of the terms, it is true, are well calculated to impress upon the unobserving mind, the idea of harmony and consistency; but how is equality and uniformity to be enforced by virtue of their use. Representation must be equal. Equal to what, or equal with what? Equal with the different areas of territory, of the different parishes or sections of country represented? Equal by being proportioned to the number of qualified electors in each parish?—to the whole population of black and white?—to the federal numbers?—to all white males over a certain age? Uniform with what? I think sir, the true answer to these questions, and defidition to the terms, as used in the present constitution will be found to be—equal with nothing, and uniform with nothing, and that no definite meaning can be ascribed to them, and for this reson I prefer that they should be omitted in framing the present constitution.

Thus much sir, for the amazement of the delegate at the disappearance of these words. This was not, however, the whole cause of amazement. It is true sir, that this report, at which such great astonishment is manifested by a portion at least of the delegation from the city, is not charged with apportioning to the fourth congressional district twenty-nine members to the house of representatives and fourteen senators, as was, without the least foundation however, charged against the report of the first committee; but a charge is brought against this of a graver character, that it *desecrates* the *principles* of democratic government; and as if to illustrate and aggravate the charge, it was asserted by the honorable delegate and from the record too, viz: the statistical tables accompanying the report of the last committee, that by making the apportionment upon the basis of voters, New Orleans would get forty-seven representatives, and that to deprive the city of a representation in proportion to the number represented, was unjust, unholy and unrighteous. I have examined this record, this statistical table sir, as the honorable delegate from the city would probably have done, if the interest of *his* constituents had appeared to him to be violated by it, and find that it is incorrect. The greatest number that will be given to New Orleans under any census of voters, is twenty out of one hundred and one, as is correctly shown by one column of this statistical table, and not forty-seven, as appears from another column of the same statistics under the head of "representation on basis of voters." This apportionment of forty-seven representatives for the city is *not* based, as it purports to be, upon any census or other calculation of voters; but as is shown by making the calculation from another column, *is* based upon all white males over twenty years of age, according to the census of 1840.

This basis would be unequal and unjust,

even if the same diversity of interest existed between the different parts of the city with each other and with the country, that exist between different portions of the country, for the reason that there are embraced in the census of the city, a greater number of foreigners not naturalized and of strangers and transient persons who hapen to be in the city when the census is taken, and who have no common interest to entitle them to representation, nor any attachment to our institutions, than there are of such persons embraced in the census of the country. As such diversity of interest, however, does not exist between the different portions of the city, so as to divide the vote of its representation, upon questions where the interest of the city and country may be different, the injustice would be increased on that account. This statistical table sir, is peculiarly calculated to produce confusion in making our calculations; and why it has been prepared in the manner it has, I am unable to determine. By one basis eighty-seven members are apportioned—by another, ninety-eight—by a third, ninety-nine—by a fourth, one hundred and one—and by a fifth, one hundred and eight. The column by which the largest number of representatives is apportioned purports to give the number on the basis of voters, when in fact such is *not* the basis, as any one may see by calculation; but instead of it, the number of representatives given by that column is based upon all *white males* over twenty years of age. Why there should have been such a diversity of the number of representatives, apportioned by the different basis, I am unable to comprehend, when nothing is easier than to find a representative number for each basis, that would have produced a result of the same number, or very nearly for each.

Having shown the error in the statistics reported, on which the assertion was founded, that the basis of qualified electors would give New Orleans forty-seven members, I will notice some of the assertions that were based upon it.

The delegate from the city, (Mr. Roselius) stated to us of the country, that we had no more right to restrict the city in its representation in proportion to the numbers to be represented; in other words, to deprive her of her forty-seven members which I understand him to mean, than the highway-man, the robber sir, had to take from the traveller his money or goods. That in either case the power was exercised by might without right. Apportion to the city forty seven members! Why sir, we might as well bind the country hand and foot, and deliver her over to the city at once.

I suppose sir, the object was to admonish the members of the danger of committing such an enormous crime, and that by committing them beforehand, they would be induced to desist from the commission of the sacriligious act.

Highway-men and robbers sir, applied to the delegates from the country, who *pretend* at least to desire nothing but justice!! I have sir, no desire to retort upon the delegation from the city, but will examine a little into the character and justice of the charge, and hope members from the country will not be moved from their position by the use of such denunciation and epithets. It was asserted by the delegate that the proposition that the number of the representatives should be equal to the number of the represented, was one, the *absolute truth* of which, was undenied and undeniable; that no reason had been nor could be given for laying sacriligious hands upon this democratic principle of republicanism.

I was struck with the force of these remarks, and fearing that a correct principle might be violated, I gave the subject my best attention, and on examining it, conclude that the principle which requires that the number of representatives should be equal to the number of the represented, holds good, only, when the local situation of the represented is alike,—when the number of the represented are scattered over a country of equal extent, or when the interests of the represented are equally diversified, then, and then only, can the principle hold good. But when the circumstances and local situation of the represented cease to be similar; when they cease to bear similar relations to each other, the principle ceases, and entirely disappears, as it certainly does under the circumstances that exist between this city and the country. And another principle takes its place, which if my conclusion be correct, is that representation should be so regulated, as to *give to the representation of equal numbers, equal weight in legislation, upon subjects where a diversity of interests exists.* This

I take to be the true principle, and the only true one under circumstances like those that exist in this State. The concentration of influence which a number of representatives will have, all coming from the same point, and representing similar interests, will necessarily give them greater power than the same number of representatives will or can have, representing each a large district of country, with a great diversity of interests. The former will vote together, and will always be strengthened by a portion of the representation from the country, the interests of whose constituents frequently differ from each other as much as that of either differ from the city; the consequence of which is that they can seldom if ever act and vote together, while the city can, and her interest requires that she should do so. It was stated yesterday by the delegate from Ouachita, that the principle that the number of representatives should be equal to that of the represented, was beautiful in theory but chimerical in practice. It is, sir, beautiful both in theory and practice where it holds good as a principle; but it is not a principle that can be applied in this case, and as it cannot properly be applied, it is not under the circumstances, and for the particular question, a principle at all.

Let us test the operation of the apportionment as it exists at present, and has existed ever since the present constitution was formed. New Orleans has but one-sixth of the members, and never has had, at least not for many years, if ever. Has she not had as much influence and weight in legislation, in proportion to her numbers represented, as the country? I maintain that she has, and much more; and that she has used it to the detriment of the country.

It was observed yesterday by the delegate from Ouachita, (Gen. Downs) that the various banks of the city were *conceived here*, and that it was *here* that the instruments were found to put them into operation: and though these remarks have not been replied to, I feel certain that they cannot with truth be denied. I have endeavored since yesterday to obtain the journals of the legislature in order to prove by reference to them, that the various charters of the banks in the city were presented by its own members, but have not been able to procure them. I am informed however, on authority that I consider good, that such was the fact, and presume that no one will attempt to controvert it. It was here that the first impulse was given to the rotten bank system in this State. It was here, under the influence of the city delegation, that it was determined to flood the country with a spurious currency in the shape of bank bills, containing promises to pay, which were made only to be violated, regardless of the consequences to the honest laborer, who was induced to take them in payment for the product of his labor, and so high did the banking mania rage here, that I heard a senator in his place say yesterday that the projects of charters flew about the city like falling leaves in autumn, and that they were piled up so high on the secretary's desk in the house of representatives, of which he was then a member, that he could not see the secretary's face for them. And for whose benefit were these banks chartered? Those who concocted them and acted a principal part in bringing them into existence and operation, were certainly first to be served; the good or ill effects to others were incidental, or more properly speaking, accidental.

The merchant, broker, schemer and idler, were all to be served, and if in serving them an accidental service were to result to the productive laborer, well; and if ruin resulted to the latter, it still was well. The result that has been produced already, is but too well known, not only to the producer in the country, but to many of the city, for whose benefit the banks were chartered. The whole country, with the exception of a few fortunate individuals, has been involved in universal ruin.

By delegating the power to banks to do the business of banking, the sovereign power of the State was also delegated and transferred from the people to these soulless corporations. They regulated the currency so far as it had any regulation, regulated the price of exchanges, controlled the price of merchandise, and of many of the products of the State, and controlled also the morals and virtue of the people; or probably it may be said with more truth, that by the operation and influence of banks, all was thrown into such disorder and confusion, as to be out of the reach of any regulator. The legitimate sources of the

sovereign power were enfeebled and paralyzed, and the power itself held with an iron grasp by the banks. The spirit of justice that usually characterizes every well regulated community, succumbed to their power. To secure the payments of the debts of these institutions, the State has given her bonds to the amount of upwards of twenty millions of dollars, as appears by the State treasurer's report of December, 1843. The exact amount now due upon them I do not remember, but it is nearly that sum. Now, sir, I ask who is to pay these bonds that have thus been fastened upon us by the influence of the city, and of its delegation in the legislature? I may be answered, the banks will pay them, and you need not concern yourselves about them. I still hope that the most of them will be paid through the medium of the banks, and thus prevent the necessity of raising the amount by a direct tax; but if the banks pay them, they must first raise the amount from the citizens, the merchant or planter, or both, in order to be enabled to do so. They must get the money before they can pay it, and there is no way to get it but out of the produce of labor. But it is again said the merchant pays the most of it, as he is the principal borrower from the banks. Very true he does so, but where does he get his money to pay with? He must necessarily increase his profits upon the producer to a sufficient amount to enable him to pay this interest, and realize a profit besides, for himself. Hence it is perfectly clear, it is undeniable, that this enormous debt that has been fastened upon the banks, must all be paid by the product of useful labor, much the largest portion of which is performed in the country. Nothing useful is made but by useful labor—so that at the least, the most of their debt of twenty millions must be paid by the people in the country. It may be said in reply, that the planters and others in the country have voluntarily borrowed large amounts from the banks, and have been as much benefited as the city merchant. It is true that they have borrowed large sums during the rage of the speculating mania, and would still do so to relieve themselves from the consequent embarrassment; but when they borrow they have none to turn upon, as the merchant has, to make the interest from that they have to pay to the banks, and the profits upon that interest. They are *real* paymasters, and the *real* sufferers, and when they become involved in the banks by mortgages or otherwise, it is fortunate if they escape without losing all they have. These are consequences that have resulted to the country by the influence of the city, when her representation in the legislature has been but one-sixth.

We all know that one-sixth of the legislature could not by its vote simply, unaided by the votes of members from the country, carry any measure; but in legislation of this kind, it is always easy to present inducements to some of the members in a large body, come from where they may, that will be extremely inviting to them to aid in an enterprise, which can be made to appear to be laudable. A branch of the bank must be established in the parishes of some of the members, cashierships given to others, and loans made to the balance until a sufficient number is found willing to serve the people in their own way, to get the charter passed. It is said that men have their price, which it is likely there is some truth in, though I do not think that direct bribes would be either offered or accepted by the representatives of the people; still some of them may doubtless be flattered, some more than is for the good of their constituents. The city delegates in such cases have the advantage of a concentrated vote, while the country members will always be divided. Considering these circumstances, has not the city with one-sixth, ten members out of sixty in the house of representatives, had her full share of weight and influence in that body? And if she has, which I trust I have sufficiently shown, why should we grant her more? Where is the injustice in limiting her to that proportion? If to do so would be unjust, I hope we shall be furnished with some better reason than has yet been furnished; for I for one, certainly would not do injustice to the city sooner than to any part of the country, and as I observed on a previous occasion, to commit injustice in the apportionment will be more likely than any other cause, to endanger the sanction by the people to the constitution we are framing.

A sense of justice which I feel assured is entertained by every member from the country to the whole State, and every part

of it, will prevent any injustice to the city; and I hope at the same time, that the decision necessary to impose such limits upon her as to prevent her from wielding an undue weight in legislation, will also be exercised by the country members,—those members who come from those parts of the State inhabited in part by men, and in part by reptiles, as the delegate stated. I did not understand him as using the term reptiles in an offensive sense, but taken in connexion with some of his other remarks, it was difficult to avoid the idea of a comparison of the citizens with reptiles. It is true that in all the northern part of the State there are reptiles, wolves, tigers and bears, that roam over the forest; but our constituency is composed of a magnanimous, patriotic and virtuous people; of men who understand their rights, and know pretty well how to preserve them. Another honorable delegate from the city, (Mr Marigny) has told us that New Orleans is the mistress of the State, and the country her servants. Truly she is sir, with the concentrated influence of one-sixth of the representation of the State, and has been for a long period, mistress of the State; and has ruled her servants with an iron rod, and now sir, when we manifest a disposition to take this rod from her, and so to enfeeble her as that she will only be able to act towards us the part of a step-mother! instead of a mistress, we are compared by her delegate to highwaymen and robbers,

I repeat sir, again, that notwithstanding the extraordinary tone assumed by some of the city delegation, that I have no disposition to pass the line of justice; at that line it is my intention to take my stand, and when the question is presented, to vote for such a proposition as will give the city such a proportion of representation as will secure to her a weight and influence in legislation, in proportion to the numbers represented, and no more; and I think the proportion she now has, is large enough for that purpose.

Mr. Eustis rose to address a few brief remarks to the house on this important question. It is true that his colleagues have covered nearly the whole ground, and yet he feels there is a propriety in his taking up the time of the Convention for a few moments, in order to satisfy his own convictions of duty: and further, that his constituents may know the principles which govern him in the vote he is about to give. He, (Mr. Eustis,) will endeavor not to repeat what has been said by his colleagues on this subject, because he is not disposed to weary or tire the Convention, but he will offer some views not yet advanced, and which have been doubtless overlooked. It is true, Mr. President, that I shall have to approach this subject with a perfect knowledge that at this moment we are in a minority on the question now before us for consideration; but, sir, it is not the first time in my life that I have seen minorities rise into respectable majorities, by the everlasting and immutable principles of truth and justice being clearly expounded to those heretofore in error. It is to such a class of gentlemen he, (Mr. Eustis,) feels he is now addressing himself; he believes them to be gentlemen as sincerely and devotedly attached to the interests of the State as he, (Mr. Eustis,) himself is; and he will go further, and say that which he believes to be the truth, that there is not a man among them who is opposed to the view he takes of the question now under discussion, no matter what his state of feeling be, political or otherwise, that would knowingly commit an act of injustice.

The gentleman who opened the debate, whom I regret not to find in his seat, the member from Ouachita, has told you that New Orleans is the heart of the State. He has shown you that there is an identity of interest and feeling between New Orleans every part of the State, even the most and remote. The sequitur of which is, that New Orleans comprises within herself the body politic of Louisiana. There we agree. No tree is felled, no spade is put into the ground, the result of which labor is not felt here. Agreeing, then, with the gentleman from Ouachita, as I cordially do, in these premises, certainly neither he nor any of his friends, have any reason to complain—for no more complaint could be made on the ground admitted by Mr. Downs, than the body, or the limbs of the body, would have a right to complain in performing their separate functions, whose life and being proceed from the pulsations of that heart.

New Orleans is, in many respects, different from any other city in the Union. She resembles no other capitol in the Uni-

ted States; and when the gentleman from Ouachita entitled her the heart of the State, he named her appropriately and well.

She was almost a giant at her birth; and she has grown so wonderfully as to astonish the world. Her brierrian arms extend from the Rocky to the Allegheny mountains.

On her destiny depends the weal or woe of Louisiana. And you might just as well take the heart from the human body, and expect a man to live, as to take New Orleans out of the State and look for any thing but general decay and ruin throughout the balance of the State of Louisiana.

Let us imagine, sir, that in spite of the universal opinion as to her future influence, her representation privilege should be curtailed, would that impede her growth? would that destroy her power, and her influence? or would she lose one scintilla of her magnetic attraction to every citizen of the adjoining States? No sir! The history of the past most clearly shows that such an hypothesis is not tenable; and shows you very emphatically that *her march is onward*. It is not for the sake of power that she wants her delegation on a fair and proper basis, because that power she is bound to have, and exercise, and no one—no system—either foreign or domestic, can ever take away from her her power. She will always be powerful in the intelligence of her citizens, in her wealth, and in the industrious pursuits of her honest, hard-working men.

Strike, then, the blow you meditated against her. No, sir, you dare not; and why? because in doing it you give her double power; and how? why by placing yourself in the wrong. The mere efforts you make to wrong New Orleans of any of her just rights; and the more you try to heap restriction upon restriction, on her the more fearful, I warn you, will be the just retribution that awaits you, for she cannot be impeded in her onward march by any such course as you are now pursuing. By your own showing this is your last ground; and even that will not avail you, for no human efforts can curtail her power or future greatness.

What surprises me more than aught else is the double injury which is to be inflicted on us, by mincing up the federal basis, with the liberal provision of *limiting* us to one-fifth of the representation even under that unjust and arbitrary rule. What can two such principles have in common? Take away the restrictive principle from the federal basis and apply it to the electoral basis, still the injustice remains, and besides, sir, I cannot conceive how they became grouped together, nor how they could arrive at the same conclusion by bringing together two principles utterly at war with each other; they at once show the futility of what we have heard so much of—the benefits of universal suffrage—if the section be persevered in, which is now before the Convention. On the one hand you say that all free, white male citizens over twenty-one years, shall be the basis on which you will erect political power, and that on that depends the safety and welfare of the country. On the other hand, you are striving with all your might and main to destroy the very temples which you professed yourself so desirous of raising; yes, you actually set to work to pull down the fair fabric of your own creation. Why, sir, this is boys' play, and not fit for sensible men to be engaged in. Have you any good reasons to give for such foolish conduct? You cannot have.

The law of 1841, calling this Convention, distinctly says that one of the main reasons is for the purpose of establishing a more equitable system of representation, as well in the senate as in the lower house, so that every parish and every district in the State, should be more equally represented than under the constitution of 1812, and more proportionate to their respective population. That is what the law calling this Convention clearly says. And now what does the report say? That says that every parish in the State shall be equally represented, *except New Orleans*. I ask can any thing be more remarkable than such a declaration coming from men who have met here to obey the mandate of the people, which is to give us a *more equitable representation*, than the one they have the boldness to make? which is nothing more nor less than saying that they are here for the purpose of putting aside the electoral for the federal basis, with the plain and unblushingly avowed object of having the city of New Orleans shorn of her power. Is this the feast to which we have been invited? Is this the great sturnalia of democracy?

If it be, then, indeed, am I mistaken in the object of my mission. The grand question is, are we to be just or not? The answer rests with you. But my view of the paramount duties of a member of this Convention is, that he should be just and impartial.

One question more on this subject. Was such a doctrine as that contended for, even broached in the legislature while they were passing the bill, calling this Convention? Was the slave basis ever thought of to be proposed to the people, as a proper representative basis? No, indeed: for if it had, we never should have been here. What would the Florida parishes have said? where the ploughs are followed by the farmers' children, and who can be seen regularly in the cotton field in the fall, gathering in the crop: why, they would have refused to send any man, however talented, who advanced the doctrine of the federal basis as the proper one on which to base State representation. The doctrine is repudiated by every State, or almost every State in the Union: and it was repudiated by the framers of the constitution under which we now live.

He, Mr. Eustis, addresses men of sense, men who know not only how to read, but to understand also what they read; and they know that the causes why Virginia agreed to adopt that basis was altogether owing to the contrariety of local interests, in that ancient and powerful State; and even then they left it to the wisdom of the legislature which was to put the constitution into being. He hopes the Convention will pause well, and reflect upon the mandate of the people who sent them here; and that will promptly reject the basis proposed to them by the committee. It is impolitic, it is unwise and uncalled for; it is rebuked by legislative wisdom, by the salutary lessons of the past, and by the examples which have been set us by the formation of every other State government.

But, say they, that is all very well, your reasons are very good, your argument indisputable, it is true. But that is not enough. We are determined that New Orleans shall be limited in her delegation! And why? because it will give her too much power.

Mr. Eustis thinks, however, that although a majority of the members of this Convention are from the country, and the power rests in their hands, they will exercise it with moderation and with justice; and here we approach the most absorbing part of the question. Let us not misunderstand it, but calmly see how it stands. You may say to the city of New Orleans, you will be too powerful under the proposed representation, if we act up to the basis we have adopted, and give you your just proportion; you will then be the majority, and we must find some means to check you. In other words, you, as a minority, holding temporary power, desire to shackle down and fetter the majority. And yet you cannot mean that, because you claim equal representation. All the professions that he, Mr. Eustis, has heard advanced on this subject must be hollow and heartless. If you do not admit the principle, that majorities must govern in all cases, pure democracy is not in you, and justice has taken leave of you forever.

Our political condition is too artificial for us to think of departing from that cardinal principle: we have here two distinct races, each entitled to their several positions, and protected in their rights; and he who will reflect at all on our condition and present situation, must come to the conclusion that numbers cannot govern safely here. It is not just; and institutions based on justice alone can stand.

A small tax cost one monarch his head, another his empire. Look well, then, to what you are doing; for injustice cannot, will not thrive. The object for which this Convention was called together was to take away from the old constitution those restrictions which amounted to unequality in the rights of the citizen, and to place all on an equal footing. The friends of popular government, of whom there are some in this Convention, and during the agitation of the question of calling this Convention, the most energetic and powerful arguments against restricting the masses, and yet they come here forgetting all the logic and eloquence they then brought to bear on this interesting subject, and thinking, as perhaps they do, that might makes right, they very cooly tell you that that is perfectly right now, which was wrong before; *then* they were struggling *for* power; *now* they think they have attained it, they ask you to insert a new, *a more onerous* restriction than can be found in the constitution of

1812; the restrictions in which we are now here for the purpose of removing.

In 1812 the power of New Orleans was comparatively as great as it is now; then we had a population of 24,000, and were entitled to four representatives. Was it then considered necessary to restrict New Orleans? Now we have a population of at least 150,000, and when we ask for a just share of representation, we are very cooly told, no, you cannot have it; you must be restricted; you must be shorn of your power. Talk to them of the framers of the old constitution being governed by principle and love of country, and they will tell you that people, now-a-days, think more and see further than they did formerly. For his part, Mr. Eustis, thinks that although they talked less, they thought more, and more wisely too; for they never engrafted a restrictive provision in that instrument, that was in direct violation of one of the fundamental principles laid down as the basis of that constitution. We are forced therefore to arrive at the conclusion that the old constitution was at least a model of consistency, and as such, it is entitled to our respect. There was no restriction on New Orleans in 1812; where is the necessity for it now? They say circumstances have changed the relative position of the city and country. We then ask them, in all candour, to explain how? and the only answer we can get is, that by the industry, diligence and enterprize of her citizens she has monopolized the trade of the country villages; that she has become the grand centre of the State; and that in consequence she has acquired so great a power over the country, in her mercantile interests, as to render it necessary to restrict her political power.

I appeal, sir, to the justice and good sense of every member on this floor, is that an argument to offer, in the discussion of a grave and vital principle affecting a people's rights? Are we to be told that because we have known how, by industry and application to our affairs, to make our position better than it was; that we are therefore to be deprived of our rights by a constitutional provision to punish us for what have ever been considered as virtues in the human character? If on the principles of republicanism we are entitled to the power, we ought to have it; and it is not reasonable in those who oppose us to meet the question by saying only that we have too much power already. The only answer we can get from them is—New Orleans has too much power, and must be restricted. Mr. Taylor was right when he told you that you could not curtail her representation in the lower house, without committing an act of injustice, while you have the power in your own hands in the senate, in which you have seven-eighths of the members from the country. Unless then you mean to contend, that you, as a minority, have the political right to commit a grievous wrong, because you have the numerical force, you must retrace your steps, and come back again to the true Democratic doctrine, that majorities alone must govern.

It is very natural for every one to look out for their own rights; nothing is more reasonable· but at the same time they should not forget the cardinal principle that they should at the same time do unto others, as they would that others should do unto them. Let all be equal. Don't try to govern a majority with a minority. New Orleans asks from you nothing but justice,and protection in her rights. Some represent one interest, some another on this floor. On the one hand we have those who represent the interests of the sugar planter,on the other,we have representatives of the cotton growing interest, while the middle interest is that of the commercial and manufacturing portion of our community. Now let all be fairly dealt with. A representative government cannot exist unless each interest be represented. That is the only perfect representation, and the only one recognized by the people of the present day, as constituting a real barrier to acts of oppression. Representing masses may do very well elsewhere, but will not answer here. While a por- of our population is regarded as property, you will say that there is an interest identified with that property which also requires protection, and that it should be represented as other interests. To this I answer, no. Take the senate, there you have the power to protect that interest, but do not deprive us of our proper proportion of power in the lower house. There is another and stronger reason than any which has yet been advanced, why it would be manifestly unjust to deprive us of that power; and that is, that the taxing power rest with the house of representatives. The city is

seriously interested in preventing an abuse of that power; which, if the strength lay altogether in the hands of the country, she would be unable to prevent. give us then, the means to protect ourselves. Take the basis you call for, and restrict the city as you propose, and New Orleans will have cause to remember the month of March, 1845. Well may they remember the ides of March, which witnessed the act of a grave body of the people's agents, by which our children and our children's children were disfranchised, robbed of their privileges, because they lived in the city. If you do it, it will be a deed without a name. But he, (Mr. Eustis,) trusts they will reflect, and not commit so gross an act of injustice; for New Orleans cannot, will not submit to it. We ask nothing from you but *equal representation*.

You insist that the power, of right, belongs to you. But there you are wrong; you can have, no one can have a right to commit an act of injustice. We are governed in the course we take by reason and justice, and it is our sincere desire to show you that the course you are taking is impolitic, and that it is alike your interest and your duty to render us justice, and give us the means, at least, of protecting our own rights.

Under the law calling this Convention, it is made our duty to provide a more just and equitable representation.

From the commencement of our existence as a State, New Orleans has been entitled to one sixth of the representation in the lower house; that, up to this time, has only given her ten members. We now come and ask you in her name, for a more just and equitable number of representatives to be allotted to her; to grant her that which she is entitled to on a fair and equitable basis; and the law calling you into existence as a body, has told you that that is your duty. But you turn a deaf ear to her claims; you are blind to the progress she has made, to her increase in wealth, in population, and in science. You fold your arms quietly and say—no! now we have you in our power, we mean to curtail you and that forever. He, (Mr. Eustis,) cannot think that justice has yet departed from all the country members, and to them he appeals. Give us at least the means of protecting ourselves from unjust taxation.

Why animosity should exist against New Orleans, he, (Mr. Eustis,) is at a loss to conceive? For his part, were he a countryman, it seems to him he should look up to her with pride. Our increased population serves but to augment her usefulness to all; we are daily increasing our mercantile interests, and our mechanical interests. We have all sorts of employment going on in those branches, to say nothing of the fine arts, which are here cherished, fostered and protected. In short, we have every thing here which is calculated to, and does contribute to the welfare and happiness of the State at large, and yet the idea is held out that is right, that it is necessary to restrict—no, deprive is the more proper word, those very men, who are so laudably engaged in contributing to the welfare of the State, of their right to be represented in your halls of legislation. Oh! that such a novel idea should have been broached in the year 1845, by the collected wisdom of the State!

Recollect that we are all here to make a just and equal representation. Do as you threaten us you will, but remember that injustice is revolting; we shall have no rest, no peace, until the injury is repaired. Agitation will succeed agitation, until the evil is removed; and it may happen, that you will find too late, that by adhering to your present course, you have destroyed the labor of your own hands, the constitution of 1845.

Mr. Wadsworth thinks the delegate from New Orleans is wrong in attributing to the country members motives which do not exist. It is not, to his mind, apparent that they desire to curtail the city. The question is, shall we establish the federal basis or not. So far as New Orleans is concerned, he thinks it is immaterial whether the basis established be the white, or the federal basis. He thinks that put it on any footing, she will always have enough representatives allotted to her to protect her rights and interests.

We of the country prefer the federal basis, because we consider it necessary for the protection of our interests. The prosperity of the city depends on the prosperity of the country. It is the country alone that makes the city, and he, (Mr. Wadsworth,) thinks it is our first duty to have the produc-

tive property provided for in our legislation.

The country members now simply desire to fix the basis; and it is droll they should attack us on that point. The proper time for them to complain of restriction would have been, when we came to apportion on a basis that was fixed, if they had cause to do so.

Mr. Brent said, that he was desirous of offering some remarks in support of the vote which he intended to give upon this question. I feel (said he) Mr. President, that it is my duty, whatever opinion I might entertain about the correctness of the principles embraced in the report of the committee, in the abstract, to give them my support under the circumstances, which at present recommend them to our consideration. In forming our judgment, we should not confine ourselves to an examination of one point merely, but we should survey the whole horizon and decide under all the circumstances what would be best calculated to secure the peace, the happiness and prosperity of our people.

Before, however, proceeding to examine the principles embraced in the report, allow me to advert, very briefly, to the tone and the temper in which this discussion has been hitherto conducted. Sir, the report of the committee has been denounced from the commencement, in a spirit of bitterness and acrimony, altogether unusual in the halls of legislation. Its supporters have been stigmatized by an honorable gentleman from New Orleans, (Mr. Roselius) as highwaymen, robbers and plunderers, and in fine, the vocabulary of abuse and invective has been ransacked for epithets, which have been showered upon them with a liberal and a lavish hand. Although this is a game at which two can play, and although I would be fully justified by parliamentary rules, in retorting these epithets upon those who have sent them, yet, it is far from my design, to employ the time of this Convention, in any such unprofitable work, as that of recrimination. The question before us is too important and momentous in its character for me to attempt to increase the excitement of a discussion, which has proved too angry to be wise, and too harsh to be agreeable. Above all, sir, on an occasion like the present, should reason, not passion, be awake.

But the honorable delegates from New Orleans have not been content with either argument or denunciation. In case we do not think proper to adopt the basis of representation which they deem most suitable; in other words, if we do not consent that all the political power and influence of this State, shall be absorbed in the vast whirlpool of this great city, we are threatened with revolution. Blood, I suppose, sir, is to flow. We are to have let slip the dogs of war upon us, and the thunders of revolution are to shake this commonwealth to her centre. Sir, honorable gentlemen overshoot the mark, if they expect that the deliberations of this body are to be overawed by menaces of rebellion or revolution, let them come from what quarter they may. We are not to be deterred or frightened from the discharge of our duty by threats of revolution even from the important city of New Orleans. Whether our principles be palatable or unpalatable to the city delegation, we intend to support them by our voice and our votes, and we are willing to surrender ourselves now, and at all times, to the judgment of the country.

An honorable delegate from New Orleans (Mr. Eustis) speaking of some undefinable and mysterious danger, tells us to "beware of the ides of March. He dreads lest the ides of March should become celebrated in our history for some dark and fatal deed. Sir, if I recollect history aright, the ides of March have become memorable, because upon that day a tyrant was slain. If we are to have the same cause to remember this day, which Rome had; if tyranny is to be rebuked and despotism laid in its grave; if the rights of the people are to be this day secured by the adoption of a wise and just system of representation, whereby each interest will be protected, and the rights of the weak shielded against the power of the strong, then, sir, will this day justly become memorable in American as it is celebrated in Roman history. I might, sir, carry out the parallel, if I chose, in a way not at all suited to the notions of the honorable delegate from New Orleans, but I pass on, leaving it to be run out by others.

The federal basis, proposed in the report of the committee, and which has been attacked in such violent and unmeasured language, has at least one recommendation in its favor. It is of an antique and vene

rable type. It comes down to us from a good old age. It is closely linked with the names of the best and most virtuous patriots of the land, and the maledictions which have been so unsparingly showered upon it, do not affect us, its present supporters, but rather fall upon the grey hairs and venerable forms of the wise fathers of the federal constitution; upon the heads of Washington and Madison, and Franklin, and Pinckney, and Rutledge, and Livingston, and that long line of illustrious statesmen who have circled the American name with a halo of undying and imperishable glory. Against the character of such men as these, the originators and projectors of this basis, no successful attempt can be made, not even when conducted by the talents, ability and eloquence of the city delegation. They are lifted too high by their virtues to be reached by the shafts of abuse and invective, and the thunders of denunciation roll harmless at their feet.

This principle, now the point of attack, is one of the compromises of the federal constitution, and it should be doubly dear to us, because it is one of those compromises; without it, this Union never could have existed, and without it, this Union could not exist for an hour. It may be said to be the very corner stone upon which is pillared the vast fabric of our national edifice. Let it be disturbed—let it be shaken from its foundation, and the whole magnificent structure will soon be reeling and rocking to its fall.

Sir, honorable gentlemen lose sight entirely of the position in which we place ourselves, by refusing to adopt this principle in our State constitution. There is no man in this hall but what desires to see this principle maintained in all its integrity in the national constitution. So far as relates to the general government, the principle is admitted to be fair and just and equitable, but when applied to State purposes, it becomes monstrous and shocking to every notion of justice and propriety. Is there not rank and flagrant inconsistency in this advocacy on the one hand, and opposition on the other? Do gentleman mean to assent that a bad principle, when inserted in a State constitution becomes a good principle when engrafted on the national constitution? Is principle of such material that it can be thrown into a state of fusion and moulded to suit the whim, caprice and fancy of honorable delegates on this floor? Is the national constitution an alembic in which by a chemical process, all the base ores can be transmitted into the precious metals? How, sir, do gentlemen reconcile the antagonistical positions, which they have assumed in reference to this principle? When they shall account for their inconsistency; when they shall furnish arguments in favor of the principle as found in the national constitution, it will be time enough then to refute the reasoning they have urged in the present debate.

An honorable delegate from West Feliciana (Mr. Ratliff) has summed up the arguments against the federal basis, by informing us, that according to that basis, five negroes are equal to four white men. This argument, and this mode of stating the argument, is not original with that delegate. It is all borrowed. And allow me to say, Mr. President, that it comes from a very suspicious quarter. I have seen the gentleman's speech before in print. I have read his arguments in the columns of the Liberator and the Emancipator, and in the speeches of Mr. Giddings and Mr. Adams, and other abolitionists of the north. Sir, the gentleman has given us nothing new, he is a mere copyist, and has only followed in the wake of others who have gone before him. But to show that I do not misrepresent, I will give the first edition of the gentleman's speech as it was delivered in May last by the honorable Mr. Giddings, a member of congress, from the State of Ohio. I quote from the remarks of that gentleman, delivered in the house of representatives upon the annexation of Texas.

Mr. Giddings said—"But if Texas be admitted to the Union, it will be admitted as a slave territory, out of which several slave States will be formed, with all the advantages of a slave representation, under our federal constitution; the effect of which will be, to give the slaveholders of Texas an influence in the election of President, Vice President and members of Congress, in exact proportion to their disregard of the liberty for which our revolutionary fathers contended; or in other words, to the number of persons they shall hold in degradation and slavery. On this point I desire the particular attention of northern democrats. I say then that if the freemen of

Texas shall each hold five slaves, each will exercise the same influence in electing federal officers, that will be held and exercised by four northern freemen. If each shall hold fifty slaves, he will have an influence in electing federal officers equal to thirty-one hard working, intelligent and virtuous democrats of New England or New York."

Sir, here is the whole argument of the delegate from West Feliciana. Mr. Giddings has travelled over this ground before him, and permit me to say, that the Ohio abolitionist has the advantage of that delegate, in the fact that he at least is consistent in his opposition to the measure. He has no connection whatever with slavery, but the delegate from West Feliciana insists upon making him submit to a principle which he is not willing to apply to himself and his constituents. Is there justice or right in this proceeding? Can we say with truth to our northern brethren, that we regard this principle as wise and just in our federal constitution, but that we deem it odious and unjust when proposed for adoption in our own State constitution? It can hardly be supposed that their metaphysical acumen will be as keen as ours, to draw the subtle distinction between a principle which is good at one time and one place, and bad at another time and another place. Sir, the judgment of condemnation pronounced upon this principle by the Louisiana convention, will have its effect, and may it not have a disastrous effect, so far as the interests of the south are concerned. It would do well for the members of the convention to reflect upon this, and not to condemn hastily, before they give to the subject that investigation which its importance demands.

Honorable gentlemen should recollect that we act in a double capacity, and have a double duty to perform. We not only represent the sovereignty of Louisiana, as a distinct and independent commonwealth; but we represent her as constituting one of the great sisterhood of American States. We are not only Louisianians, but we are members of the great family of the American Union. That we are deeply and vitally interested in upholding the basis of representation established by the federal constitution, no one will pretend to deny. We should pause, sir; we should move with caution and circumspection to any conclusion that may tend in any degree to unsettle that basis, or to furnish arguments in behalf of the efforts now made to disturb it.

The principle of representation established in the Federal constitution, is now the chief point of attack by the northern abolitionists. That fanatical party has already accomplished one result, important to the acquisition of its ends. The 21st rule of the house of representatives has has been rescinded. One of the outworks has been carried by storm. The floodgates have been opened by the American Congress, for the admission of incendiary petitions, and the dark and thundering torrent of Abolition is sweeping its billows, and foaming and maddening around the walls of our capitol. But the attack made upon this principle in the federal constitution, is confined neither to fanatics or associations of individuals, but it has been headed by one of the sovereign States of this confederacy. A State no less important than Massachusetts has thought proper to enlist in this crusade against a principle, the destruction of which would lead inevitably to the dissolution of our glorious and happy Union.

Here is the evidence of it, taken from the official records of the nation. I read from the proceedings of the United States Senate, on the 23d of January, 1844, as follows.

Slave Representation.—"Mr. Bates presented a resolution adopted by the legislature of Massachusetts, instructing the senators and requesting the representatives from that State, to vote for such an amendment to the constitution, as will allow only free persons to be represented, or in other words, to abrogate the slave representation. The resolution proposing the amendment was read, as follows.

"*Resolved*, That the following amendment to the constitution of the United States is hereby recommended to the consideration of congress, to be acted on according to the fifth article. The third clause of the second section of the first article, shall read in the words following: Representation and direct taxes shall be apportioned among the several States which are or may be included in this Union, according to their respective numbers of free persons, excluding Indians, not taxed," &c.

Here, Mr. President, is the proof, that against this particular feature in the federal

constitution, the whole battery of abolitionism is now directed. Massachusetts, forgetful of her ancient renown, has lent the power of her great name; to assist the sacrilegious work of pulling down the noblest fabric of government which was ever reared by mortal hands. Shall we join her in the crusade against the rights of the south—against one of the compromises of the constitution, and against the existence of our glorious Union? Are we to adopt the arguments of Mr. Giddings, and affix the seal of our reprobation upon that principle proscribed and denounced by Massachusetts? By refusing to apply this principle to ourselves, do we not virtually admit that it is unjust and unfair, and do we not place ourselves in the position of doing that to others which we would not should be done unto us? And cannot the abolitionists close the lips of our representatives upon the floor of Congress, by quoting the proceedings of the Louisiana convention, and particularly by quoting the speech of the honorable delegate from West Feliciana? One of two things is clear. Either the southern States have no right to insist upon the maintenance of the federal basis in the constitution of the United States, or they cannot with justice and propriety, object to the application of that principle to themselves. I am the advocate of equal and exact justice. That which I mete out to others, I am willing should be meted out to me. I desire to force no man to submit to a principle which I am not willing shall be applied to myself.

We are told that the case is very different as regards the State government and the general government, and that the reasons which render this principle necessary in the latter, do not apply to the former. Sir, I cannot understand the logic of the honorable gentlemen, who insist, that slaves should be represented in the national Congress, but should not be represented in the State legislature. Throwing out of view the consideration, that slaves are both persons and property, it does appear to me that the reasons are much stronger why this principle should be adopted in a slave-holding State, than that it should be adopted by the general government. While the authority of a State to abolish slavery, is not, and cannot be questioned, on the other hand the general government has no right to interfere with the internal regulations and institutions of a State. If then, any desire to protect that institution prompted the incorporation of that principle in the federal constitution, the necessity is much more apparent for its enactment in the State constitution.

If we were differently situated—if we were legislating for a people to whose laws the institution of slavery was unknown, the arguments of gentlemen in favor of the electoral basis, would to my mind be irresistible. But for weal or for woe, that institution exists amongst us, and there is no desire among the people of this State that it should cease to exist. The mere fact of its existence, must necessarily lead to a modification of our laws. Every motive of self preservation requires, that the legislation of the country should be accommodated to its existence, and the principle of representation adopted in the federal constitution, seems to be peculiarly adapted to the circumstances which surround us.

But the honorable delegate from West Feliciana, has attempted to make an issue upon this question between the poor man and the rich man, and he has told us that if he had avowed himself prior to the election, in favor of the federal basis, that he would not now be occupying the seat which he at present fills. He thinks that the poor men in his parish would have voted against him. I am at a loss to understand how the poor men of his parish would have been injured by the adoption of the federal basis. Although under this system, slaves are to enter into the basis of representation, yet in voting for the representatives, the vote of the poor man is equal to that of the rich. Any principle which goes to increase the representation of his parish, will confer as much benefit upon the poor as upon the rich, and if it should turn out that the delegate has advocated a principle which will diminish the representation of his parish, he will find it very difficult to satisfy his poor constituents that he has correctly represented their interests. I am differently situated. I avowed myself in favor of the federal basis before the election, and notwithstanding this avowal, I can assure the gentleman, that I received a very liberal support from the poorer classes of the community. Nay sir, I received a much more liberal support from them than I did from the more aristocratic and wealthy

classes, who seemed to entertain the opinion that my election might in some degree, tend to subvert that form of government which best comported with their nobility.

A great deal has been said in argument, about equality and uniformity in representation. The changes have been sounded upon this doctrine of equality, from the highest to the lowest note of the gamut. This principle appears to strike honorable gentlemen with very unequal force. Those who are loudest in preaching up equality to-day, on to-morrow will not hesitate to disfranchise whole classes of citizens at one fell swoop. If I know my own heart, there is no principle which I cherish with greater reverence than the principle of political equality. It is the polar star of my political hopes. My attachment to it will survive, when these gentlemen after having accomplished their purposes, shall fall back upon their cherished doctrines of restriction and conservatism.

To obtain exact and mathematical equality in representation, is next to an impossibility. We may approximate to it, but the thing itself can never be obtained. The laws of population, and the geographical and political divisions of the State forbid it. Where large bodies of men are concentrated upon a single point, and embraced in one political community, and where the residue of the population of the State is scattered over a vast extent of territory, and divided into numerous political communities, it is impossible for any system to distribute the political power of the State with perfect equality. While one portion of the population is concentrated, and moves in solid column, to the accomplishment of its purposes, and while the other portion is divided and acting without unison, it is evident that the large and compact body, must of necessity have more weight and power, no matter what system may be devised, having reference only to the political consideration of numbers. For instance, the representatives of this city, moving in solid phalanx, representing one interest, and animated by one common impulse, are just as formidable to the delegates from the country, as would be a column of disciplined regulars, encountering the forces of a raw and undisciplined militia. Sir, these gentlemen are for keeping the promise of equality to the ear, but breaking it to the hope.

Look at our experience under the old constitution. That instrument provided that representation in this State should be equal and uniform, and be forever regulated and ascertained by the number of qualified electors. Could any thing be more just or beautiful than this in theory? And yet sir, the promise of equality was kept only to the ear, it was broken to the sense. Nothing could be more unfair or more grossly unequal than the representation, as it was practically distributed under this provision of the constitution. In proof of this, I have only to refer to the history of the past. At two consecutive elections in 1842 and 1843, it is well known that one of the political parties carried this State by large majorities upon the popular vote; in one case, electing their governor by fifteen hundred majority, and in the other, electing an undivided delegation to Congress, and yet it is notorious that this same party was unable to place a majority at that very time, in the State Legislature. What was the cause of this? The city of New Orleans throwing its vast weight into the opposite scale, decided then as it has always decided the political fortunes of the State.

Now the federal basis will have some tendency to throw power to the country parishes, and thus create an approximation towards equality, though of itself it will be insufficient to produce the whole result. Another advantage possessed by a large city where numbers alone are represented, is, that nothing is lost by the fractions which may exist over and above the representative number. Whereas, the losses to the country parishes from this source alone, are almost incalculable. For instance, suppose four thousand five hundred to be the representative number, established by law. Now it is evident that the city can only lose upon one fraction, whereas each and every parish in the State, may sustain a loss as heavy as that of the city itself. One-third of the people of this State, embraced within the limits of this city, cannot by any possibility be subjected to the loss of more than one fraction, whereas the two-thirds of the population out of the limits of the city, may be subjected to the loss of forty-four fractions, there being forty-five parishes in the State, including the parish

of Orleans. Suppose each parish in the State to have a fraction of three thousand over and above the representative number, then the loss to the population of the city will be but three thousand, whereas the population of the country will sustain in the apportionment of representation, a loss of one hundred and thirty-two thousand. To take round numbers for purposes of illustration, suppose that there are one hundred thousand persons in the city, and two hundred and fifty thousand in the country parishes. The population of the city will then count as ninety-seven thousand, and the population of the country as only one hundred and eighteen thousand. Here is a great and a vast advantage possessed by the city, owing to the concentration of her numbers, and the fact that she constitutes but one political community.

In view of these things, Mr. President, I avow myself without hesitation, in favor of that principle embraced in the report of the committee, which provides that no parish or city in the State shall have more than one-fifth of the whole representation. This will give New Orleans twenty representatives out of one hundred, and what use she can have for a larger representation I am at a loss to imagine. Do gentlemen expect us to establish a different rule from that which has been established by other States situated similarly with ourselves? Pennsylvania, an exceedingly large and populous State, has thought proper to restrict the city of Philadelphia, whose relative proportion to that State is much less than that of New Orleans to Louisiana.—Maryland has arbitrarily limited the city of Baltimore to eight representatives, about one-eleventh of the whole number. South Carolina has placed a still greater limit upon the city of Charleston, and without any very urgent necessity, and yet we are asked to allow New Orleans, whose influence already overshadows the State, her full representation according to numbers, and without any limitation throughout all time to come. This Convention may perhaps accede to her wishes. The representatives of the agricultural interest may agree to surrender their constituents to the tender mercies of the stock jobbing and trading classes of New Orleans, but if they do, it will be a sad and fatal error, and bitterly will their posterity rue it.

Strong appeals have been made to us on the score of supposed identity of interest between the city and the country. I regret to say that this identity of interest exists only in the fancy of those who have made the appeal. It has no foundation in fact. New Orleans does not depend upon Louisiana for her wealth and prosperity. Her roots strike wider, and she gathers strength and nourishment from other sources, than from the State upon whose soil she stands. Look at her geographical position. The laws of nature which carry down the waters of the river to the sea are not more certain in their operation, than are those laws of trade which are building up this city with the rapidity of magic. Throughout all time to come, the trade of that vast and fertile region which lies between the Rocky and the Alleghany Mountains must centre in her ports. And then south of her lies the Gulf of Mexico, which, to borrow the language of another, like a monarch bowl at a feast, pours the rushing libation of its tides and wealth at her feet. Beyond lies the broad Atlantic which is already covered with the sails of a commerce connected with this city, that for its value and rapid augmentation, is scarcely equalled by any on the face of the globe. Sir, the domestic trade of this city with this State, compared with her vast foreign trade, is but as a rivulet to the sea—a molehill to a mountain. How then do gentlemen make out that identity of interest? New Orleans relies mainly upon a foreign trade, carried on with other States and other nations; and yet we are to be told that the country parishes have an interest identical with hers! It is an empty dream—an idle fancy. The country parishes of the State may languish in hopeless adversity, while New Orleans, like a huge vampyre, will feed and fatten and flourish upon their desolation and decay. Whatever disaster overwhelms the city will extend its ravages to the country, but when the country is affected, for the reasons which I have stated, the city does not necessarily sympathize in her affliction. There is much greater danger if the balance of power should tend that way, that New Orleans will oppress the country, than that the country will oppress the city.

We have been challenged to produce

any instance in which New Orleans has shown a disposition to trample upon the rights of the country. Have the city delegation forgotten so soon the history of what was called the wharfage tax; and will they inform us what was the effect of that measure—what its object—who supported and who opposed it? Its effect was to tax the labor and toil of the producing classes of the country; its object was to redeem the shin plasters which had been issued by the broken and bankrupt municipalities of this city; and its ardent and unwavering supporters were the delegation from New Orleans. Will gentlemen persist in denying that New Orleans has ever attempted to oppress the country, when we cite them to this instance, yet fresh in the minds of us all. Sir, there are none so blind as those who will not see.

In the remarks which I have deemed it my duty to make, I do not desire to be considered as placing myself in an attitude of hostility to this great city. If I know myself, I have no feeling of unkindness in my bosom towards her. No one desires more earnestly than I do, to witness her success and prosperity. No one is more anxious to see her fulfil the glorious destiny which lies before her; and I trust yet to behold her the queen city of the earth, sending the white-winged messengers of her commerce to the four quarters of the globe and gathering to her exuberant bosom, the riches of the sea and of the land. May peace be within her walls, and prosperity within her palaces. But, Mr. President, the feeling of pride with which I contemplate her present position and future prospects, cannot outweigh my sense of duty nor induce me to forget the admonitions of the past. It is for the good of all parties concerned, that no one class of our citizens—no one interest in the State should have a predominating influence over the rest. Concentrate power where you will, in the hands of one man or one set of men, and it will be abused. It is the disposition of man—the propensity of his perverted and depraved nature, and it should be guarded against by wise and salutary enactments. There is every ground to apprehend that without some restraint, the commercial interest will absorb and engulph, like a Maëlstroom, all the other great interests of our State. We must guard against it in time, or when the evil does come, it will be too late to remedy. I shall sustain, sir, the report of the committee, without alteration and without amendment.

Mr. Ratliff would not have troubled the Convention nor have uttered one other word, to the few brief remarks which he made on that subject when it was previously before the Convention, had not he been so specially selected as the victim to be offered up to appease the excited and indignant feelings of the gentleman from Rapides, Mr. Brent. That gentleman has seen fit to address himself (in the violent phillipic with which we have just been indulged) most especially to him, the humble member from West Feliciana. Well, before he is led up to the altar to be sacrificed, he desires to express his views clearly and plainly, for he objects to the misrepresentations of the gentleman from Rapides, or to those of other gentlemen, come from whatever quarter they may, and what is more, he wants it distinctly to be understood, he will never submit to have the expressions he uses to be perverted to serve any gentleman for an argument, (for want of a better one.)

As he does not expect to be here when the vote is taken on the question now before the house, he is the more anxious to trespass on their attention for a short time, not to gratify any personal feeling he may have in the matter, but because he wants the position he has taken to be properly understood by his constituents. He (Mr. Ratliff) makes no pretensions to book-learning; at home every body knows him as a plain practical man. He does not indulge, therefore, in studies which he does not profess to understand, and he does not profess to understand any of the principles of abolitionism, which the gentleman seems disposed to attribute to him. I have never, Mr. President, read the Emancipator in my life, a paper which has been quoted by Mr. Brent as containing similar remarks as those which I advanced when this question was previously discussed. I have never yet read any of Mr. Giddings' or Mr. Slade's writings or speeches, which have been quoted as containing sentiments similar to those said to have been advanced by me; and yet, if we are to judge from some of the quotations which we have had read to us, they are principles which might

readily be advanced by an humble peasant or a prisoner in his cell. The reasons, perhaps, why he has never had the advantage of Mr. Brent in getting such information, as he has indulged us with the knowledge of, are perhaps two-fold.

In the first place, he has never subscribed to any abolition paper whatever. In the second place, he feels certain that the reason he never got any *sent to him*, must have been from one of two causes, either that he was so well known as their determined and deadly enemy; or that they had regarded him as too small and insignificant a personage to serve their purposes. How the honorable gentleman came in possession of such documents he does not pretend to know, but one thing is certain, he (Mr. Ratliff) would hate to let the vile trash soil *his* fingers. When he was a candidate before the citizens of West Feliciana, no such question was presented to them, as is stated to have been before the citizens of Rapides, and if they had been, and he and his colleague, Mr. Wederstrandt, had maintained the doctrine of federal basis, he thinks one thing is very clear, they never would have been members of this body.

He desires at once to join issue with the gentleman from Rapides. He says the same reasons exist here for us to adopt the federal basis, as existed in the formation of the federal constitution to adopt it in that instrument; in other words, that they should be the same in the federal and State government. I cannot conceive there is a shadow of reason for such an analogy as he has endeavored to make.

In the first place, the one is a compromise entered into between the north and the south, when the interests, habits, customs and feelings are as different from those of the south as we can well imagine. In the federal constitution, therefore, the federal basis is the proper one; it has tended to allay angry feelings between the different sections of our country, and has produced a happy effect, but that is not so in the States.

In the second place, the other, the constitution of a State, is a kind of family matter, and the grand object every member of a Convention should have uppermost in his mind, is to deal out even handed justice to all. Now, in this State we have forty-five parishes, all the same people, all governed by the same laws, and all identified with the State by a common identity of interest and feelings. If that be so, and it cannot be denied, where is the justice of giving a wealthy parish a greater number of representatives on account of her having a larger amount of slave population than others? It is said that my parish would be benefitted by taking the federal basis, but, sir, it shall nevertheless not have my support on that account, for any evanescent advantage. I take a larger view and a longer one, perhaps, than the gentleman thinks I do; for what if, as is daily the case, the slave population is being carried from our poor and worn out lands to the rich alluvial bottoms of the adjoining parishes. With the negroes will be transferred the influence sought to be given to the possession of slave property besides, it is partial legislation and unjust, and shall not be sanctioned by me. Besides, it is hard to tell what may turn up in thirty or forty years, and it is my desire that hereafter I may leave no vote of mine on record but what is based on fair, just, and honorable principles. In giving to all an equal chance to be heard according to their proper proportion on an equal and fair basis of their white population, we shall not lay ourselves open to censure for abandoning any of those principles we have professed. Besides, I think the gentlemen who have taken the opposite side of the question will (when the figures come to be looked over again,) find themselves mistaken, and while they wish to increase their own power at the sacrifice of principle, feel rather awkward to find that instead of restricting New Orleans by adopting the federal basis, they will have added to her representation nine members more than she would be entitled to under the electoral basis. According to the voters of 1844, she would only be entitled to twenty representatives out of one hundred and one; and by the federal basis she would be entitled to twenty-nine, yes, almost thirty. It must be remembered that the census is taken in the month of June, then every body is here. We have a large part of the floating population of the world, while in the country we only increase in population from the proceeds of our labor. Now if New Orleans has the advantage over us fairly and honorably under the electoral basis, why in God's name let her

keep it. If fixed at one-sixteenth of the house (of 100 or 120) why she can't have more than twenty representatives. Simply say that each parish shall have at least one representative; don't let us scare members away by supposing particular parishes are to be favored; and while upon that part of the subject, let me refer to the population white and black, in the parish of Rapides. I find there are 3,243 whites, and 10,511 slaves. He charges me that West Feliciana will be benefited by this basis being adopted. Suppose I were to act as the gentleman, in his zeal for my character before my constituents wants me, how could I even dare to look them in face? and when asked by them how I came to abandon their principles and my own, as professed on all proper occasions, I should have to say to them, "why, I know I was doing wrong all the time, and I felt ashamed of what I was doing; but I did it just to increase the political power of our parish, perhaps for ten years, certainly not over." What do you imagine would be the answer? let me tell you, they would say that [illegible]d not fairly represented them, for they never would take political power at the expense of principle.

The present position of the gentleman reminds him very much of a somewhat similar case in his own parish. A man who had committed a very grave offence, found but few friends to sustain him; and among those who censured him the most, was a certain eminent gentleman. Shortly after that, he became suddenly struck with the idea that the man was innocent, and every one wondered at this change in his conduct; it finally turned out that a fee of $1000 had wraught this wondrous change. Now, sir, I can't for the life of me help thinking that the 10,511 negroes in the parish of Rapides have had a similar effect on the mind of the gentleman, in making him so strenuous an advocate for the federal basis. I am a no time serving democrat, sir, I desire to serve my country on the broad principles of democracy, equal rights, and equal privileges; and I have never, nor ever will I take ground with any party that I consider wrong.

My motto is the same as that of the celebrated and eccentric Davy Crockett. "Be sure you are right, then go ahead." And this question when first presented, set me to investigating, and I asked myself after the examination of it, which is the fairest basis? I was compelled to come to the conclusion that it was the electoral basis, and that no other basis ought for a moment to be thought of. And now, sir, I would ask all men of all parties in this house, to come up and meet the question fairly, lay down a fair basis and settle it as if we were one family; fix it upon correct principles, and let no one throw impediments in the way, for the paltry gratification of a short-lived triumph of party. In support of his (Mr. Ratliff's) position, he quoted the opinions of Mr. Monroe on this subject.

"My idea has been, that it will be wise to base representation on the white population in the house of delegates; and to place an adequate check on the result of their deliberations in the senate. This is my opinion. By basing the representation on the white population, we are resting on principle; on a principle corresponding with the bill of rights and with the constitution; for our government is in the hands of the white people. We shall by this means rest on fundamental principles, and gratify the feelings of the people in every part of the community. Our constitution rests on that basis."

And, sir, said he, if I be in error, which I feel sure I am not, I at least err in very good company, for President Monroe besides being a good man, was a man of eminent ability, with a clear head and cool judgment; and withal, a pure republican. And he was in favor, as we see, of the electoral basis, when he was a member of the Virginia Convention, over which he presided.

Take then that basis, and you reduce the number of the representatives to twenty in a town of one hundred and one. And yet they are awfully scared. The gentleman from Rapides has informed us, in reply to a warning of the gentleman from New Orleans, (Mr. Eustis) to "beware the ides of March." That the ides of March" was famous for having crushed a tyrant; evidently making thereby a responsive allusion to the city of New Orleans being now the tyrant. Now, sir, let me tell the gentleman from Rapides that he had better take the advice of Mr. Eustis, for if he persevere unto success in carrying any other basis than the electoral basis, the

days of our political liberty are numbered; for nothing is more to be dreaded, than that in the struggle for political power in a constitution intended for all, party strife should be mingled in it. If it be permitted to enter into the conflict, the rights of the people are sure to be invaded, restricted and trampled upon, in the bitterness of partizan feelings. And tyranny takes the place of justice—representation would be a farce, and monarchy and aristocracy would hold the sway. Let us look at the other States surrounding us, and all bordering on the old States.

In the States of Ankansas, Missouri, Alabama, Kentucky, Mississippi and Tennessee, either the bases in their constitutions are, "the free white male population over twenty-one," or, "the electoral."

In South Carolina it is a mixed basis, but not a federal basis. And have these States ever been charged with abolitionism?

How was it in Virginia? Why it was settled by a compromise—and they left it to the legislature to determine the details, so as to render the diverse interests of the State one common interest.

Have not the New Orleans members shewn every desire to meet you in the same spirit of compromise? They have, and I respect them for it.

In the Virginia Convention on the question to combine, the vote stood 47 and 47, the speaker voted in the negative. On federal numbers, the vote was 47 yeas and 49 nays; rejected. On three-fifths, 47 yeas and 49 nays; rejected. And the compromise was only made in taking the federal basis, as the basis agreed upon, by striking out the property qualification of twenty-five acres of land as the electoral qualification. How then can that authority be referred to, when even on the compromise, there was only a majority of five votes for that basis—and twice rejected on all other modes proposed. Throw that authority aside then.

We were sent here to extend the right of suffrage. I dont suppose any body will deny that—now how are we about to do it? Surely not by giving one parish a special privilege over another, because they have more slaves in it. He, (Mr. Ratliff) while he admits the eloquence of Mr. Brent, is not convinced by a single argument that he has advanced. And he will never consent to put the black man on a footing with the white man. He had rather be charged with any epithet in the vocabulary of vituperation which he, the gentleman, may see fit to apply to him, than go home to his constituents and tell them that he had ever consented to place one hundred slaves, or the owner of them, on representative equality with sixty free white citizens. In deciding the principle of universal suffrage, we have virtually given in our adhesion to the electoral basis. But if we now change the representative basis, from the electoral basis to the federal basis, we shall virtually undo that work, and give a preponderating influence to those parishes with a large number of slaves, that will overbalance the smaller parishes. And I would further remark, that many of those parishes thus favored, contain large quantities of wild land, uninhabited; and when the large masses of negro population are concentrated on the alluvial lands, they are inhabited but by an inconsiderable number of whites; in many instances, by no one but the overseers on the plantations for miles and miles together. And shall we say that Rapides and such parishes are to overshadow West Feliciana, St. Helena, Livingston, and all the smaller parishes? He conceives that this Convention will never sanction such a doctrine. He feels sure that the calculation made by the committee, which says, that New Orleans would have forty-seven votes on the electoral basis is incorrect; for he knows the committee never dreamt of it. Taking the vote of November, 1844, the number would be twenty and a small fraction; and yet they say, New Orleans will swallow up the whole State. Give her a fair proportion, in God's name then, be it what it may; then in ten years make any apportionment on just and fair principles.

The cry against New Orleans then, I repeat, sir, is all a humbug, a solemn farce. She has too much at stake in the country, and is too closely identified with the interests of the different parishes for us to dread any thing from her. Where should we go to for succor in case of insurrections? to the favored nabob with his one hundred slaves? No, you would fly for aid to that very city, and those whom you now would

deprive of their just rights, noble, generous spirits as they are, would promptly come to your relief with bold hearts and ready hands.

Let posterity be the judge when they want to change their constitution. It has been tauntingly said that I, sir, have gone over to the enemy—that enemy who on every possible occasion took advantage to grind down the country in the making of their wharfage laws and the like. But let me tell the gentleman that there he has again woke up the wrong passenger, for I was a member of the legislature myself when that bill was passed, and I opposed it with all my might and main, and I have always and on all occasions, opposed any measure not dictated by the pure principle of justice. Let him or any one scan my public acts for the last ten years, and I think he will find them as consistent as those of any man. Yes, sir, I am sure he will find the old horse as near the truth as any body else.

When our country was at war, who but the poor white men were found in the ranks? Did the one hundred negro men go? No, indeed. Why, sir, I recollect well when volunteers were called for to go to Florida, several of those worthy white men, whom you now propose to class sixty of as only equal to one hundred negroes, were the first to step forward. I recollect one man, Capt. Jourdan, then a pilot, earning two hundred dollars per month, gave up his situation, left the wheel, and fought the battles of his country nobly and heroically. That man has since returned wounded and sick. Another man went with him, and did good service to his country, in the field, and in his care and assiduity in attending to the company he commanded. He returned home sick, and remained so for a long period. I allude to the gentleman from my parish, who now holds a seat in the legislature of this State; for poor though he is, it is such noble and chivalrous spirits the people delight to honor.

I could cite still another case, that it gives me pleasure to enumerate. Mr. McDonough, now a clerk on board the Luda; he went out in that memorable campaign, and returned, though wounded, with honor, and deserving the gratitude of his country.

Such men as these it is we are called upon to curtail the privileges of. I think, sir, it is our duty to protect them in, and (whenever we can,) extend their rights.

Let all be fairly dealt with, and if West Feliciana be entitled to but one vote, she will nevertheless be heard in the legislative halls. He, Mr. Ratliff, was sent to this Convention more as a personal compliment, than on the score of ability, but, sir, there is no lack of great men in that parish, who are always ready to step forth and defend and protect her rights when necessary.

Mr. President, I am done. I felt it due to myself to reply to the unjust attack made on me, by the gentleman from Rapides; to say what I have said. I trust the Convention, which has given me a kind and attentive hearing, will remember that; as it is admitted that an honest man is the noblest work of God, it would be unjust to deprive any man of his political rights because he is poor.

Mr. Benjamin rose with a view of assigning his reasons for the vote he should give. The section under discussion embraces two principles to which he is opposed—1st, the federal basis; 2nd, the restriction on the rights of the city in her representation. The only question before us at this moment is, to strike out the federal basis. When in the committee, he opposed the insertion of that basis, not because he did not think New Orleans would get as much by adopting that as by taking any other basis that might be selected. On the contrary, he thought New Orleans would gain by it in that respect; but he opposed it, because he thought it radically wrong. He cannot be charged with interested motives, then, for the city; because he is satisfied she will be the looser if the federal basis be not established; but he opposed it because he thought it would operate unjustly. He regards representation as a co-relative term; that there can be no representation, unless from the choice of those represented; and he is opposed to any other basis than that of free, white population; and while New Orleans would be benefited by the adoption of the federal basis, considering it as I do, (said Mr. B.,) unjust, I feel bound to oppose it.

Mr. Ledoux: Mr. President, I shall take this opportunity to explain my position and my vote upon this most important question. I am most decidedly in favor of the duly

qualified electors, as the basis of representation, because that embraces the principle for which we have been contending since we have met here—that is, that our government is essentially a government of men, not of property; and that is the principle that I wish to consecrate in the constitution we are framing. Gentlemen, I know, prefer the federal basis, because the country parishes will thereby gain political advantage. For my part, sir, there is no advantage in the world, either personal or political, that would induce me to abandon principle, or deviate from justice. I say that if, in adopting this, which I consider the most fair, equal and republican basis of representation, it should appear that the parish of Orleans, or any other parish in the State, was entitled to one third of the whole representation in the legislative halls, let her have it; if to one half, let her have it; principle expects it, reason and justice demand it. Gentlemen are unwilling to make distinctions between man and man, and yet they do not hesitate to make distinctions between large collections of men—between large and small parishes. True democracy, in my judgment, knows no distinctions. It places the rich and the poor, the small and the large, upon the same footing—all upon the same platform of equality. I know well, Mr. President, that in assuming this position, I incur the dissatisfaction of many friends, both in the Convention and out of it; but, sir, I must not forget that I have a country to serve, as well as friends to gratify. I must not forget that I have embraced principles which I thought best calculated to promote the interests of my country, and which I swear never to abandon. I must not forget, especially, that I occupy upon this floor the proud position of a representative of the State of Louisiana—of a representative of the whole state, and as such I cannot, and will not, permit injustice to be done to any portion of it. I came here "to do unto others, as I would be done by." This is the only true, genuine, unquestionable democracy—the only democracy that is synonymous with justice; and I would frown most indignantly upon any departure from it. These considerations, Mr. President, weigh heavy on my mind, and to act contrary to them, would be to act the hypocrite to my judgment and my conscience.

The question was then put on the motion of Mr. O'Bryan's amendment, which was to strike out the following words: "its population, ascertained and calculated according to the principle of representation adopted in the Constitutton of the United States," and decided as follows:

Mess. Benjamin, Brazeal, Brumfield, Burton, Carriere, Cenas, Claiborne, Culbertson, Eustis, Grymes, Humble, King, Ledoux, Legendre, McRae, Marigny, Mazureau, O'Bryan, Peets, Porter, Preston, Prudhomme, Ratliff, Read, Soulé, Taylor, Waddill and Wederstrandt; 28 yeas: and Messrs. Aubert, Brent, Bryant, Chambliss, Chinn, Derbes, Downs, Garrett, Hudspeth, Hynson, Mayo, Porché, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Roman, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Taylor of St. Landry, and Wadsworth; 22 nays.

Mr. Read desired, in giving his vote, to explain the reasons that influenced that vote. He will go as far as any member of this house, in restricting New Orleans to a fair proportion of the representation of the State, but he is unwilling to do so by means of the federal basis, believing that this basis would work injustice and inequality between the country Parishes. He is in favor of the electoral basis.

So the motion to strike out the federal basis prevailed.

Mr. O'Bryan then moved to fill up the blank with the words "the number of electors in it,"

But before any action was had on it,

Mr. Chinn moved to adjourn until 11 o'clock on Monday next.

Monday, March 3, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Beatty opened the proceedings by prayer.

The journal of Saturday, first March, was read and approved.

Mr. Covillion moved that leave of absence be granted to Mr. Prescott of Avoyelles, on account of illness.

Mr. Wederstrandt moved that leave of absence be granted to his colleague, Mr. Ratliff, for a few days.

Mr. Saunders also moved that leave of absence be granted to Messrs. King, Huds-

peth and Taylor, of St. Landry, for a short period.

Leave of absence was granted to all, but not without serious opposition from Messrs. Downs, Eustis, Humble and Voorhies.

Mr. Downs desired the reporter to record his name, in these proceedings, as did also Mr. Humble, in opposition to these everlasting calls for leave of absence. They were both opposed to leave of absence being granted except for illness.

Mr. Eustis desired also to have his name recorded against it. He thinks the Convention has no right to grant leave of absence to any of its members, without some good cause be shown why a member absents himself.

Mr. Chinn thought the gentlemen were catching at straws, for how could they reach the object they aimed at unless they inflicted some penalty on delinquent members—or unless they made it a rule of the Convention, to say, that those who did not reach the hall by the usual hour, should have no per diem, nor any seat in the Convention, if he were thrice guilty of absenting himself without good cause. The gentlemen, however, had the right accorded to them to record their names against all leave of absence whatever, except on account of sickness.

The Convention then took up the

ORDER OF THE DAY.

ARTICLE SECOND, SECTION SIXTH, OF THE REPORT OF THE SPECIAL COMMITTEE, AS AMENDED.

Each parish shall be entitled to representation in proportion to ——; *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives.

Mr. O'Bryan moved to fill the blank in said section with the words "the number of qualified voters in it."

Mr. Downs submitted the following substitute, viz:

"Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein; *Provided*, that no portion of the State now constituting one parish or city shall ever be entitled to more than twenty representatives, and that each parish shall have at least one representative; and, *Provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors."

In the year ——, and every four years thereafter, an enumeration of all the electors shall be made in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principle of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any law after the enumeration until the apportionment shall be made.

Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: eight by the 1st municipality, eight by the 2d municipality, three by the 3d municipality, and one for that part of the parish on the right bank of the Mississippi: 20

The Parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1

The Parish of	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Claiborne,	1
"	Bossier,	1
		—
	Total,	97

On motion of Mr. Downs, the printing of the above substitute was ordered, and the consideration of the same postponed until printed.

Before the printing was ordered, Mr. Chinn rose to oppose the printing of the project offered by Mr. Downs, because it only procrastinates the matter; we have been already three weeks engaged on this question, and if the motion to print prevail there is no knowing how much longer it will take. It certainly is time to do something with this question.

Mr. Downs remarked, that his object was not delay, but to facilitate and hasten the matter, as doubtless it would do if every member had a printed copy of the project before him.

Mr. Chinn further objected to the printing on the score of economy.

Mr. Voorhies moved to lay the whole section on the table, until the project of Mr. Downs be printed.

Mr. Benjamin could not see the necessity of postponing the consideration of the section, as Mr. O'Bryan's motion to insert "the number of qualified electors in it," is substantially the same principle as submitted in Mr. Downs' project.

Mr. Claiborne suggested that the project of Mr. Downs should be printed in French as well as English; which was agreed to.

Mr. Sellers moved to amend Mr. O'. Bryan's motion by filling the blank with the words "in proportion to its population, black and white."

Mr. O'Bryan moved to lay said amendment indefinitely on the table.

Mr. Sellers would have no objection to lay on the table subject to call, but if to be laid there indefinitely, he would prefer to debate the question at once—and asked the question if it was in order to debate any question that was moved to be laid indefinitely on the table.

The President replied that it was debateable.

Mr. Sellers was about to address the house, but withdrew at the request of

Mr. Guion, who desired to move another amendment, which he trusted the house would see fit to adopt. It was a mixed basis, made on votes and taxable property. There can be no doubt that property should be represented in some shape, as well as men, and he therefore proposed the following amendment: "Each parish shall be entitled to representation according to the number of qualified electors, together with the taxable property it may contain."

Mr. Voorhies does not think any proper calculation can be made, on which we could depend, or which would operate fairly and equally.

Mr. Guion thought that nothing was more simple—property might be estimated by the tax rolls, although that he would hardly consider just. But a board of commissioners could be appointed by the legislature, whose duty it should be to make an estimate of the voters and taxable property in each parish. He is surprised that the committee made no report on the feasibility of this plan. He thinks it clearly the only just basis we can adopt.

This new proposal called Mr. Wadsworth up, who proved that the Convention should reconsider the vote of Saturday. He thinks the federal basis is the only fair one, and he therefore moved to lay the whole subject on the table, until Thursday next; which motion did not prevail.

Mr. Wadsworth then gave formal notice that he should ask the reconsideration of the vote taken on the first instant, on striking out the federal basis, on Wednesday, the fifth instant.

The question was then put on Mr. Guion's amendment, and resulted as follows:

Messrs. Aubert, Bourg, Chinn, Guion, Labauve, Legendre, Mazureau, Pugh, Ro-

man, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Sellers and Winder voted in the affirmative—15 yeas; and

Messrs. Beatty, Benjamin, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Cénas, Chambliss, Claiborne, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Humble, Hynson, Kenner, Leonard, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of St. Landry, Preston, Read, Scott of Feliciana, Scott of Madison, Soulé, Stephens, Voorhies, Waddill, Wadsworth, Wederstrandt and Wikoff voted in the negative—41 nays; the motion therefore was lost.

Mr. Sellers then renewed his motion, and moved as a substitute for Mr. O'Bryan's amendment, that the blank be filled with the words "whole population," and the yeas and nays being called for, resulthd as follows:

Messrs. Aubert, Beatty, Bourg, Chinn, Derbes, Dunn, Guion, Kenner, Labauve, Pugh, Roman, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Wadsworth and Winder voted in favor of the substitute—17 yeas; and

Messrs. Benjamin, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Cenas, Chambliss, Claiborne, Conrad of New Orleans, Covillion, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, Legendre, Leonard, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porter, Porché, Prescott of St. Landry, Preston, Prudhomme, Read, Roselius, St. Amand, Scott of Baton Rouge, Soulê, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff voted against the substitute—41 nays; so that substitute was rejected.

The next question presented was the amendment of Mr. O'Bryan, on which

Mr. Porter rose, and stated that he should vote for the principle proposed, but would like to have some alteration in the phraseology of the amendment, and was proceeding to explain, when

Mr. Downs remarked that that was the duty of the committee of revisal, but in the meantime they might take the vote, which should settle the principle.

Mr. Chinn thought that there was another question which ought to be settled first, and that was the restriction that was to be placed on the city of New Orleans. Thinking so, he moved it be laid on the table subject to call.

Mr. Downs is of opinion that it is a matter of no consequence whether the question of restriction is decided now, or at some future time. We are now called upon to decide the principle on which we are to establish a basis. If this proposition is adopted, he will move the further consideration of the whole matter under debate until to-morrow, when we settle all the minutia at the same time; but he does not think we ought to postpone the consideration of the amendment of Mr. O'Bryan, in which we do nothing more than fix what the basis shall be.

Mr. Conrad thinks Mr. Chinn is right, and that the restriction to be placed upon New Orleans had better be settled before this question is taken. He therefore seconds the motion to lay the amendment offered by Mr. O'Bryan on the table, subject to call.

The question on Mr. Chinn's motion was then put and lost.

Mr. O'Bryan's amendment was then decided by yeas and nays, and resulted as follows.

Messrs. Benjamin, Brazeale, Brent, Brumfield, Burton, Carriere, Cenas, Chambliss, Claiborne, Conrad of New Orleans, Covillion, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, Legendre, Leonard, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Read, St. Amand, Saunders, Soulé, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—38 yeas; and

Messrs. Aubert, Beatty, Bourg, Briant, Chinn, Derbes, Dunn, Guion, Kenner, Labauve, Porche, Pugh, Roman, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers and Winder voted in the negative—18 nays:

While the vote was being taken,

Messrs. Downs and Brent remarked that they voted for it, not as their first, but as their second choice.

Mr. Dunn remarked that he had been always in favor of the federal basis, and therefore he should vote against it.

So the Convention adopted the electoral basis, as the basis of representation.

Mr. Downs then moved to lay the section as amended on the table, until his pro-

ject could be printed and submitted to the consideration of the Convention; say till to-morrow.

Mr. Beatty objected. He thought we ought to progress with the section as it is, and if necessary, the gentleman from Ouachita could accomplish as much in the way of amendment, as by waiting for the printed substitute proposed by him. We could proceed with the written one.

Mr. Downs' motion was put and lost.

Mr. Downs then proposed his substitute, as before set forth, for the whole section as reported.

Mr. O'Bryan moved to reconsider the vote for printing, and wishes the substitute to be read, which was done.

Mr. Dunn then rose to a point of order. He conceives that it cannot be in order, for this reason. The section proposed by Mr. Downs says that "each parish shall have at least one representative." Now that clause has already been rejected by the Convention.

The President agreed with Mr. Dunn, that the substitute was out of order.

Mr. Downs was sorry to differ in opinion with the President, but he was constrained to do so, with Jefferson's Manual in his hand. On page 101 it is laid down that a proposition once rejected by the house, may again be submitted when combined with other matter not previously acted upon. He further read from page 94, that wherever a different proposition is made, any thing previously acted on may be again connected with it. He thinks the question may now be settled, in company with the new questions presented in the substitute, whether each parish shall be entitled to one representative or not, and also that no new parishes shall be created, until they have the proper basis of representation. Alone it would not be in order, but combined with other clauses, it is clearly so.

The President, while he was satisfied with the reasons given by Mr. Downs, would take this occasion to remark, that he should adhere to the first decision he has given on this question, for where he had previously decided as Mr. Downs now asks him to do, his decision was not sustained by the house. He would prefer leaving the Convention to decide the matter for themselves.

Mr. Dunn then asked that the decision of the president be maintained.

Mr. Beatty moved to lay Mr. Downs' substitute indefinitely on the table, and to take up the report of the committee, and debate the section reported, clause by clause.

Mr. Downs hopes the motion made by Mr. Beatty will not prevail. He desires to have his substitute printed, and submitted to the Convention as a whole; he therefore prefers waiting until to-morrow. The matter is an entire subjec; it may have merit in it which the members may not see at once, from the simple reading of it; and which would certainly be better understood, if properly reflected on. The object of introducing it is to harmonize the feelings of the Convention, and with a view to settle this vexed question in a spirit of compromise. He (Mr. Downs) hopes the Convention will regard it in that light, and not hurry the matter through without time for reflection, nor throw it hastily aside. He therefore confidently expects that it will be laid on the table subject to call. He is moreover anxious, before this question is submitted, to have a full house, to decide on the merits of the important principles connected with it.

Mr. Beatty, however, persisted in his motion, when

Mr. Benjamin rose to explain to the Convention, that to his mind the member from Ouachita, (Mr. Downs,) must have taken an erroneous view of the result to be produced by laying his substitute on the table; for certainly, said he, (Mr. Benjamin,) it cannot be denied that we can offer the same principles in the shape of amendments to the section as reported by the committee, which he has embodied in his proposal of compromise. That is certainly no new question. It has been done repeatedly, and the right to do it has never been questioned, to his knowledge, in any deliberative body. To lay a substitute on the table in any form, even indefinitely, is not a rejection of the principles contained in it. We reject it as a whole, because as a whole it may not all be germain to the particular question we have under consideration, but any of those portions of it which are, may be selected from it and offered as amendments to the section under debate. The object of the

gentleman from Lafourche seems to be, simply to reject the section, but not to touch the right of introducing the principles contained in the project of Mr. Downs, nor to prevent him from introducing them as amendments to the section before us.

Mr. Beatty moved to lay the substitute on the table, subject to the call of the house; which motion was put and carried.

Mr. Downs then moved to take up the article as reported, as to the organization of the senate. But his motion was lost, and the Convention then took up the 6th section of the 2d article of the constitution.

Mr. Mayo then moved to strike out the words "one-fifth," and insert "one-sixth" in the last clause; whereupon

Mr. Marigny took the floor:

It appears to me, Mr. President, that the gentlemen on the other side of this question, are a queer set of people. They are eternally telling you that they want nothing but justice, and yet they always manage to have it a kind of one-sided justice; every thing for themselves, and nothing for us. One, in the plenitude of his consideration, gives us one-fifth of the representation; now, another thinks one-sixth is a plenty for us; and yet they are both actuated by a spirit of justice!! The grand though hidden object of all these movements is to destroy the influence and power of the city; that has to be done some how or other. But I think, sir, and perhaps it will be much to the astonishment of my colleagues, that I have a plan to propose, that will test their sincerity. They are eternally prating to us about the moral influence which the city of New Orleans has upon the country members; that they are either feasted over, flattered over, cajoled over, or deceived over to measures which are specially to be made beneficial to the city, and to the prejudice of the country, and it is in consequence of the fear which they entertain, or express, for that malign influence, that they now have the modesty to say, we must be deprived of our equal and just representation in the house of representatives. Well, he, (Mr. M.) thinks he has a plain and simple remedy to cure the disease, provided the constitution of the patient be not too much impaired.

It is perfectly clear to every man of sense, to every right thinking man, that the hue and cry made by these members is not based upon the grounds which they profess, but it is that they may get their hands upon the treasury, while we of the city contend that we have a right to exercise our just and fair proportion of influence in the direction of the affairs of that treasury. Now then, in order to get rid of the dreaded influences which they charge upon us as possessing over the country members, if they will act honestly and give us our just and fair proportion of the representation, let them take away the seat of government from New Orleans and carry it into the country, even to Jackson if they see fit; provided, however, that they make the session to be holden in June. If you refuse this proposition, you will at once show, and palpably too, that you are not sincere in your professions; and that the only thing you are resolutely bent upon, is to deprive us of our just representation "nolens volens." Why, on the score of economy alone, (which some of you profess to be so much in favor of) you cannot, if you are sincere, object to my proposal, for every body knows if you take away from the legislature the excuse of debating upon local matters as they do now in bills to establish ferries, &c. &c. and put them to their work in the month of June, in a country village, that they will get through as much or more work in twenty days, than they would in an agreeable place, at an agreeable season of the year, in six weeks; and thus instead of a session of the legislature costing the State $50,000 as now, $20,000 would pay the expenses.

Mr. Marigny makes these suggestions with the view of waking up the members to a proper reflection of our duties here, and to test their sincerity of purpose. We are here to make a lasting constitution, but we must make it a just one, granting equal rights to all, or the $80,000 which has been appropriated and will be spent, to defray the expenses of our labor, will have been thrown away.

Act unjustly towards New Orleans, and she will vote against your constitution "en masse." And that vote, connected with the vote of those who do not desire to disturb the constitution of 1812, will defeat the very object for which we are ostensibly met, to wit, to amend that constitution to

suit the present and future wants of the people of Louisiana.

Factions, or party spirit have no business in this body. We are met, or we should be, as a band of brothers, to mete out even justice; and yet you tell us, the country is afraid of the city. That assertion naturally makes the city afraid of the country, for people who in the first place take alarm, are very apt to do some rash and foolish act.

I repeat to you, then, (said Mr. Marigny) there is but one way to compromise. You give the city her fair and equal share of representation, and we give you the seat of government in the country.

He therefore moved to postpone all further consideration of the matter for two or three days, so as to give the members time to reflect upon his proposition.

The President pro tem, Mr. Labauve, decided that the motion was not in order.

Mr. Saunders appealed from the decision of the chair. He thinks the suggestions made by Mr. Marigny are in every way entitled to the consideration of the Convention, and they approach nearer to a prospect of settling the conflicting opinions between the city and country members, than any that he has yet heard proposed. He thinks them worthy of consideration, both in a pecuniary and political point of view, and he will support Mr. Marigny in their adoption. And therefore, to give proper time for an harmonious compromise of the question, he appeals from the decision of the chair, and hopes the motion to postpone will prevail.

Mr. Beatty desiring to make some remarks on the subject before the Convention, Mr. Saunders withdrew his appeal, and Mr. Beatty proceeded:

He felt it to be his duty to say, that amongst the members of the committee, who had made this report, the greater number thought one-fifth was too large a proportion to allow to New Orleans in the representation of the State; while the city member thought it was not enough. But finally, the committee came to the conclusion to report one-fifth as the suitable and proper proportion, although much difference of opinion had existed. He desires to say that he shall oppose the motion to strike out. He is prepared, in deference to the report before us, to go as far as one-fifth, but if the motion prevail to strike out that part of the section, he thinks Mr. Mayo's proposal to fix the proportion at one-sixth will prevail. He thinks himself that one-fifth is a fair and liberal apportionment, but he warns those gentlemen who press with so much zeal the striking out the one-fifth, to pause and reflect well upon what they are doing. He (Mr. Beatty,) makes no threats as to the course he intends to take, but he assures them, according to his poor judgment, that they will lose instead of gaining by striking out the one-fifth, and that they will finally get less than the one-fifth.

Gentlemen may pursue what course they see fit. If no alteration is made in the section touching the report in that respect, he will firmly maintain it in that particular, but should it be stricken out, he shall feel at liberty to act according to his discretion; at the same time he does not hesitate to say that he is in favor of restricting the political power of the city. The section of the country which he represents in part, all call for restriction on the city, and he will vote for any measure then that shall come the nearest to one-fifth, provided it does not exceed that amount. It does not require any prophet to foresee, that if she be not restricted, that she and the adjoining parishes will, in ten years, hold the controlling power of the State within their hands. All the different interests of the State will be at her mercy and control; the sugar interest, the cotton interest, the grazing interest, in short every interest of every class. Give her one-fourth of your representation, and she will swallow up all the others. He thinks one half the State is in favor of the federal basis, which he considers more equal and fair than the electoral basis. He considers the country has much to fear from the thousands that annually are filling up New Orleans. Under the free suffrage system, which we have established in our constitution, the number of voters will be increased under the electoral basis fully five thousand votes. That will swell the vote up to twenty thousand. It is this preponderance of power he desires to prevent. In this city there are many single men engaged in business pursuits, and therefore the number of voters under the electoral basis are greatly increased compared with what they will be in the country. There one voter will probably re-

present his whole family, which may consist of ten or twelve persons, and with only one vote in the family, and that his own. For these reasons he shall vote against striking out, and should it prevail, he shall then feel himself free from any pledges he may have given in committee.

Mr. Benjamin had moved to strike out the 4th proviso, but he withdrew that motion until it should be ascertained whether there was to be any restriction on New Orleans on the popular branch, and to what extent it would be pressed.

The questions then before us are,

First: Shall there be restriction?

Second: What shall be the extent of it?

He, Mr. Benjamin, is opposed to restriction in every shape and form.

He feels that it is his duty to make some remarks in reply to what has been said by the member from Lafourche, (Mr. Beatty,) because he was evidently referred to by him. The committee, whose report we have under consideration, was composed of twelve members, being from each congressional district; there were two members from the city of New Orleans. When the committee met he found himself the only member present from the city, his colleague from some cause being unable to attend. There were eleven members present. At first they decided that New Orleans should be restricted; and they proposed she should be confined to one-sixth of the representation. He, Mr. Benjamin, opposed it; and tried by every argument in his power, to prove to them how unjust it would be in its operation on the city, and its interests; but he was voted down. Finally I, said Mr. Benjamin, was notified by the members of the committee, that they had concluded to fix the restriction at one-fifth, provided I would agree to abide by it. Finding that they were decided and unanimously against me, and that one-fifth was better than one-sixth, if we were to be restricted, I consented to agree to the report. That was the dilemma in which he, Mr. Benjamin, was placed. He thought it better, if the country was determined to curtail our rights; as she seemed determined to do this, he felt convinced he would be doing right in securing the best he could for his constituents. His colleagues, when he represented the state of things, would scarcely believe that a majority of the committee would, or could sustain so unjust a measure; they thought that they would be impressed with the truth, that the pure republican doctrine demanded that representation should be equal and uniform; and further, that if it were deemed necessary to put a curb on the city of New Orleans to check her power and influence, that it was not in the lower branch that the check should be placed, but on the senate, which is emphatically the conservative body of our government; and they then plainly told him, (Mr. B.,) they could not be satisfied with this report; and that if so made, they would throw themselves at the mercy of the Convention; and should oppose it. The committee were then so informed; and they replied, that if he, Mr. Benjamin, felt himself at all compromitted, and would not sustain the report fixing the limit at one-fifth, they should not feel themselves bound to it, but should reserve the privilege to move an amendment making it at one-sixth. He feels it necessary further to explain to the Convention why he yielded to the allowing each parish one representative, without regard to its population; which question had been adversely determined by previous action of the Convention. When he came to make the calculation that there were many of the old parishes whose white population had become so small, but whose property interest was nevertheless large; that they would not be entitled to a representation, without on the same principle as that established by the Convention as the basis of representation. The new parishes came in, who were precisely in the same situation that they were; he was compelled, in fairness, to withdraw his previous opposition to it— and hence the reason why the report comes back as previously reported, with his consent. But when it is considered that the question was put in this form, can you deprive the new parishes of one representative, without depriving Saint Charles, St. John the Baptist, Washington and many other small parishes, of their representation? And moreover, when it is taken into consideration that this clause was only to remain in force until a new census could be made of the State; and the Convention would, by the action of the committee, be spared from censure; and that hereafter all new and old parishes would be placed on an equal footing; is it

not to be considered a prudent and necessary conception, to give no cause of complaint, but to give to every parish now, one representative, and then leave it to future events to determine what each is fairly and justly entitled to? It was for those reasons he consented to that clause of the report.

He does not wish to deprive the northwestern or the Florida parishes of any of their rights; if they grow faster than the old parishes, let them have the full benefit of their growth; let the political influence of every one of them be increased as they grow in wealth and population. And he, Mr. Benjamin, will further say, as has already been said to the Convention before, while speaking of the rights of the city, let every one enjoy their rights to the fullest extent; be just, and be fair to one and all. Some may not be entitled to representation under the new census which is to be made next year, unless classed with other small parishes. But until we get correct data, which we have not now, as the census of 1840 is so incorrect that it cannot be relied on, it is neither fair nor right to deprive them of the privilege of being heard on the question of apportionment, when it shall come up to be acted upon in the legislature, on the principles we have established in the Convention. For these reasons he concurred in giving to each parish one representative to start upon.

He has before said that he was forced into giving his assent to the one-fifth principle of restriction; but as the other members of the committee are now freed from the obligation, he, Mr. Benjamin, feels himself equally free; and his first act of freedom shall be to say that he will vote against restricting us to one-fifth of the representation of the State.

To his, Mr. Benjamin's mind, the argument advanced by Mr. Eustis was too forcible, not to have its proper weight before the Convention; and that was, that not persons alone should be considered, but general interests, also, should be considered in determining a basis of representation; in other words, that no class of citizens should be placed in the power of another class; and for that reason he thinks that "total numbers" form the only element on which a fair representation can be based.

To a certain extent I am bound, said Mr. B., to admit the argument which has been used; that legislative power, when concentrated, is more than an equivalent to the same numerical number of votes in a legislative body, without that concentration. And that, which in theory may appear inconsistent, is not so in practice; as thus: twenty-five or thirty men who are united in one common interest, will have a greater influence and greater power in the decision of a question, than the same number, who have not the power of centrative interest.

Now, Mr. President, although I know and feel that I may be blamed by some, for making this admission, yet, conscientiously believing it, I do not stop to look at any other than such consequences as finally result to the candid, open and fair man.

Let us suppose, for instance, that the city should become entitled to fifty votes, and the country to fifty votes, in a house of one hundred members; there cannot be a doubt if fifty be united, that they have an advantage over the fifty who have no concert of action. And, sir, said Mr. B., feeling this, I should be willing, in the spirit of compromise, to allow something to the country as an equipoise; and when that is done they can ask no more. What do they now want? Suppose we pay, as we do now, one half the revenue of the State, and even it is doubtful if we shall not soon pay three-fourths of it, can we be satisfied with one-fifth of the representation? can we be satisfied to let two-thirds of our just weight go for one-fifth? If country members would say to us, that concentration increases your power one-fifth, and that to take that amount from our power would be considered an equivalent to satisfy what they conceive our advantage over them from that concentration of interest; then I could understand them; and then, sir, I might, and doubtless should, meet them on that ground of compromise. Just let them say, your representation shall be equal to ours on the basis we have adopted, less one-fifth; just let them say, that if you are entitled to fifty votes then you shall have forty members in the lower house, and we will divide the other ten proportionably among the other portions of the State; then I would understand you, and then I would join you, but don't say that you will restrict us to twenty members, when with even such a fair al-

lowance as I propose to you, we are *justly entitled to forty* on your own democratic basis. He (Mr. Benjamin) thinks we have but two grand divisions of interest in the State, the one commercial and the other agricultural; because although the agriculture of the State is divided into two separate and distinct interests, the sugar and cotton interest, still so far as the city is concerned with the country, or the country with the city, they make but one interest; and yet we are virtually told in case agriculture should suffer to the value of one-fifth, and commerce should thrive and prosper to the extent of the other four-fifths of a whole, that the country would have a right to appropriate to their own use all the revenue which is derived by New Orleans from her immense trade with the great valley of the Missouri, Ohio, and Mississippi rivers; that the country interests are always to be *first* provided for; the country is to absorb all. If wealth and population are discarded altogether from your minds, and you are to be frightened out of your propriety by the fear of concentration of interests, then I shall protest in loud terms against your unjustifiable course. What we ask of you is, not to take all; and the only ground we can meet you upon is that of pure and simple justice. We do not know how far you mean to press your restrictive measures upon the interests of New Orleans. We regret to find you in such a desponding mood; we are sorry to hear you say that the country is about to be sacrificed for the benefit of the city. Such a contingency cannot arise, for the interests of the city and country are identical in almost every minutia of our mutual transactions. There is but one possible way to bring their interests in conflict, and that is by an undue use of the taxing power; but look back and see what results have heretofore proved; the country has always, up to this time, had the advantage of the city on the question of appropriations. When the city is imposed upon, and when her dearest rights are invaded, do they suppose that New Orleans will bind herself hand and foot, and deliver herself over to the country? Gentlemen are greatly mistaken if they think so. On what principle do they expect it? do they rely on their power? If they do they have lost sight of reason, and one would really think they had in the course they are pursuing. Do they imagine by fawning the spirit of jealousy against the city, and thereby discriminating in the legislature, by passing laws that are unequal in their operation, that they can succeed in their schemes of injustice to the city? It will not result as they expect, even should they try it.

On what principle of justice can one hundred thousand persons residing in the country, claim the right of taxing, unequally, three hundred thousand because they live in the city? How much less have they not that right when it is well known that the same country only contributes one-fourth in taxation of the amount paid into the treasury—she contributes $100,000, New Orleans $300,000. Can it be wondered at then that those who support the government should murmur and complain when they are deprived of their just portion of representation? The house of representatives, in which house originate all bills for revenue, might take it into their heads to pay the State tax by a special tax on the commerce of the city; and if we are shorn of our power in that branch of the government, and we are reduced down to one-fifth against four-fifths, where shall we look for relief? We may look for justice elsewhere, but we shall look in vain.

We have heard a great deal about the immense advantage which the country is to city, and that we could not get along without the country. In his (Mr. B.'s) opinion, it is the city which for years back has sustained and supported the country; yes, she has done so for the last twenty years.

Are not $100,000 raised in the city and paid into the treasury as a tax upon professions, besides the taxes imposed on all auction sales, and also the tax paid into the treasury by foreign merchants? The first is taken from the labor of men engaged in professional pursuits. The second results from the sale of goods sent here from the north or from Europe for sale at auction; that pays two and a half per cent. State tax.

Now who pays these taxes, the city or the country? Why, New Orleans pays it directly, and in fact under this onerous law, they pay more; and how? Why, both the foreign and native importer and trader, who have to submit to such exhorbitant taxes. The foreigner now does not import more

than one-fourth of what he used to, and the latter is forced into the New York market to lay in his supplies, all which expense adds to the cost of his goods. Goods can't be imported here, owing to the heavy tax, and millions are sent to New York, which find their way here by that route with heavy profits—they take a commission at every turn. Thus the country, by such a course, lays an immense burden on the city. It is somewhat singular to hear the arguments of Messrs. Downs and Mayo on this subject, indeed he (Mr. B.) cannot but think they have become the dupes of their own sophistry, when they tell us that it is the country that pays the revenue, and that without them we should not have the means of doing so. Then reasoning on those false premises, they say they are bound to protect themselves in the representation of the State, and that out of one hundred representatives, of which one half really belongs to the city, they just want eighty, that is the argument; they say, when we are served, you may take the rest; we are desirous of leaving to you your just weight!

This brings to mind the course of those gentlemen when we were discussing the division of the State into four congressional districts. One of the members from the fourth district, while the matter was under discussion, was desirous of postponing the consideration of the question as to the fourth district until the other three were regulated. The first, second and third districts being agreed upon, he finally had to take the rest of the State for the fourth, when he might have done better, had he not been too anxious to increase her political power. Now they desire to apply the same principle to the city, you take what we leave—and they say that twenty out of one hundred is enough for us.

But this is a question that they must meet fairly—it must be decided on its merits—we must protect all interests that are growing in value. Diminish the vote of the city as far as you think it should be fairly done, to make up for her increased power from a concentrated vote; say in your proviso that no parish shall have no more than a certain number, but strike out from your constitution that they shall never have more than one-fifth. If you do not you will plant in it the germs of its own destruction. He (Mr. Benjamin,) will not indulge in any thing like a threat; but this he will say, that if we do not act on the principles of impartiality and justice, and although he will not say that the constitution will not be ratified, yet if we do adopt the section as it stands, it will only be one step towards the destruction of our political fabric.

For these reasons he (Mr. B.) moved to strike out the proviso in toto.

Mr. O'Bryan takes the same view as does Mr. Benjamin, for this reason—while it says too much, it says too little. Suppose we were to have hereafter four or five large cities in the State, and their population were to entitle them to one-fifth of the representation, what then would become of the country?

Mr. C. M. Conrad was desirous of making a few brief remarks. He had already addressed the Convention on the injustice and impropriety of restricting New Orleans so as to deprive her of her proper power in the legislature. He said it was his firm conviction that all parts of the State should be fairly and equally represented in the legislative halls, no matter what basis is assumed, whether it be numbers, taxation, or what not—that each should have what it is entitled to, whether it be numbers or taxable property, under our plain declaration that representation shall be equal and uniform. They would admit this to be correct doctrine if it were to be applied to any of the parishes, such, for instance, as Natchitoches or Livingston, but the moment you get to the city of New Orleans the tune is changed entirely; then there must be an exception. And what new reasons have we had urged upon us to sustain the exception? Why, that there is a concentration of power in cities. Upon my soul, (said Mr. Conrad,) I cannot see into the meaning of it. Have one hundred thousand persons in the city more political power than the same number would have in the country?

He (Mr. Conrad,) differed with his colleague, (Mr. Benjamin,) in the admission which he had made on that subject, and he thinks facts will sustain him in his position. Let us examine the vote in the city of New Orleans, where there is the larger number of voters than at any other given point, for the last twenty years, and we shall invariably find, that it has been more

divided than it ever was in many parts of the country. Is it pretended that here is the great point of concentration? If they will go back and examine the facts as they are, they will find that concentration is more likely to be found in the vote of St. Landry or Lafouche Interior, St. Mary or Livingston. Is there any great concentration of power in the city delegation in this hall? No, they will find that on almost every question which has been so far acted upon by this Convention, that they are nearly equally divided. In this case they are united, because the proposed measure inflicts a vital stab at the rights of all the citizens of New Orleans, and it would be unlike honorable men, if they could remain with arms folded, when so important a measure as the disfranchising their own constituents was under discussion.

He cannot, then, see the danger of concentration, and he is bound to think, from what lights he has before him, that it is a chimera of their fancy.

Talk about sympathy, mutual intercourse, &c.; why the people of New Orleans, many of them, don't know their next door neighbors; while in the country parishes they are intimately acquainted, and generally throughout the neighborhoods in which they live, although miles apart.

He thinks that to a certain extent, in a certain contingency, it might be right to make some deduction, but that would alone be if the seat of government were retained in New Orleans.

A gentleman remarked here, recently, that no State or country could be properly governed where cities preponderated. Now it is clear, that either the interests of the city and country are identical, or that they conflict with each other. If they are identical, and he cannot see that they conflict, where is the policy of this measure? And even if they do conflict with each other, there is even then no justice in it.

He is sorry to see that there is a spirit infused into the minds of the members of this Convention, that there is a conflict of interest between the city and country; for his part he regards it as a mere imagination, unless, indeed, they placed it upon the ground that they fear the taxing power will be abused by the city members. Now if that be true, which he by no means admits, have we not provided a remedy? Is not the senate a check? Has not the country seven-eighths of the members of that body in their interests? And it is well known that no revenue bill, nor any other, can become a law without the consent of both houses. Where, then, is the necessity of restricting the city in the lower house, to guard *that power?* The only reason which we have yet had assigned for the necessity is, that if they do not restrict her, why, she will soon have the majority and govern the State. When he (Mr. Conrad) addressed the Convention on a recent occasion, he said he considered it less a matter of consideration that each parish should have a representative, than that each and every interest in the State should be represented. In this he was opposed by Mr. Downs, who thought that unless each parish had a representative, they could not be said to be represented, for they had local matters to attend to as well as those of larger parishes. He (Mr. Conrad,) returns now to that question. Why should not fair allotments be made to each portion, and each interest in the State? Why are we to take away the political power of the southern part of the State to give it to the north-western part of it? Why should we turn a majority of the people of the State, and a majority of the interests of the State, into a minority in our halls of legislation?

This is not only a blow at New Orleans, but also at the whole sugar growing and a portion of the cotton growing interests. When he speaks of the cotton interest, he alludes to the Florida parishes, who grow a large part of the cotton crop of the State, and who are clearly identified with New Orleans. By this blow they are deprived of their just weight in the legislature. He was in hopes that the committee, composed as it was of members from each congressional district, would have been governed in their report by more wisdom, and more justice, than they have, and he yet confidently relies upon the just feelings of many of the members of the Convention to strike the proviso out of the section; for, if restriction were at all necessary, where is the propriety of imposing it on the southern portion of the State? None at all.

Some of his (Mr. Conrad's) colleagues, have truly told you, that if you insert such a clause as the one before us, in your constitution, it will not be ratified by the peo-

ple. He is far, very far from saying any thing that can be construed into a threat on his part. So far as the new constitution has been progressed in, he gives it a decided preference to the old one, but if a provision be engrafted in it like the one before us, he should certainly prefer the old one, and mark my words, sir! the people will so decide. What are we here for, but to make a constitution that will be acceptable to the people at large? Why then include a provision that the majority will repudiate? But, sir, suppose it were to be ratified, it will not last long. It is a libel on the American character, to say that they would tamely submit to despotism. The people, when they come to reflect, will never put up with any thing but justice, fairness and equality, and it will soon be like

"The baseless fabric of a vision,
Leaves not a wreck behind."

They say to us, how are you going to amend it, when we have you in our power? You may complain as much as you please, but we have got you in our power, bound hand and foot. Let me say that although you have four-fifths of the house of representatives, and seven-eights of the senate, and although you have provided that the legislature may make the necessary amendments to the constitution; that all combined together will not do it. The majority will turn a deaf ear to the complaints of the city, and thereby we are deprived of all peaceable means to redress our grievances, and we are then driven to one of two alternatives—base submission, or violent opposition. Now it is perfect folly to blink this question; to that it must come.

He (Mr. Conrad) shudders when he reflects upon the consequences to flow from the adoption of the principle of restriction now pressed upon us so warmly, and so vehemently. It may not be that they or we are to reap the fruits of this unjust measure; but it will surely come to pass in the next generation. All history tells us, that the American people will not submit to be ruled by a minority. It forms a part of their political religion, to repudiate any such doctrine, and they will not long submit to any paper constitution that is not based on the principles of justice. The Rhode Island rebellion will be nothing to the scenes that will be enacted here. So far as he is concerned, for the sake of peace and harmony, he is disposed to make some concessions. Surely two-thirds of the lower house, and seven-eights of the senate, ought to be sufficient with the veto of the governor, to satisfy them. But as there is a limit to the necessity, so there must be a limit to the rule.

Let us then inquire what is the amount of the absolute necessity in restricting? Take that, but take no more.

He has but few words to add. He had hoped during the progress of this debate, that the difficulty would be compromised. He now regrets to find that it is not likely to come from the quarter he had expected it. He thinks they are acting unreasonably, and not as true friends of their coun-ry.

He is himself greatly in favor of conciliation and harmony, and with a view to give time for reflection, he trusts they will take advantage of the adjournment.

Mr. Conrad then moved an adjournment until to-morrow at 11 o'clock, which was carried.

TUESDAY, March 4, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. PRESTON opened the proceedings by prayer.

This being the day fixed for the re-consideration of the vote given on the adoption of section 3d of article 3d; on the motion of Mr. MAYO, said section was called up, viz:

SEC. 3. "No person shall be eligible to the office of governor or lieutenant governor who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election."

On motion of Mr. MAYO, said section was laid on the table, subject to call.

ORDER OF THE DAY.

Section 6th of the report of the committee to whom the same was referred, and as amended, viz:

"Each parish shall be entitled to representation in proportion to the number of qualified electors in it; *provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

Mr. BENJAMIN moved to amend said section by striking out entirely the proviso.

Mr. SAUNDERS inquired of the chair whether it were in order to present a *project* and refer it to the house, as if they were in *quasi* committee?

The CHAIR replied that it was.

Mr. SAUNDERS: If that be the case, I will submit a *project*, which I will take the liberty of introducing with a few preparatory remarks. It will obviate the difficulty in the way of a favorite measure with the house, and yet will not violate a principle: the measure is one in which I heartily concur, that each parish be entitled to a district representation. I repudiate the idea that every individual person in the political community can be equally represented. What I assumed in the few remarks I made upon another occasion was this, that every political locality had the right of being heard, and that argument has remained unanswered; the gentleman from Lafourche (Mr Taylor) in commenting upon my position, misunderstood my language. What I said, with the view of illustrating the position I took, was this, and I repeat it again, that if the colonies had been heard the revolution would not have taken place at the period it did. Other causes would, without doubt, at a later period, have produced that revolution.

With the permission of the house, I will read to them the *project*:

"Until the first election after the month of January 1855, the members of the house of representatives shall be elected in the following manner:

"Every parish may elect one member, and 7000 inhabitants, (including slaves,) shall be the mean increasing number which shall entitle a parish to an additional representative.

"And to prevent the house of representatives becoming too numerous, the mean increasing number shall be proportionally increased in the year of our Lord one thousand eight hundred and fifty-five, and every ten years afterwards; so that the house o representatives shall never consist of more than one hundred members.

"Every parish which shall hereafter be established, shall be entitled to elect one representative, when it shall contain 7000 inhabitants, and not before; and until the year 1855 the representation shall be as follows, viz:

The parish of	Ascension,	2
"	Assumption	2
"	Avoyelles,	2
"	Baton Rouge, East	2
"	" " West	1
"	Bernard, St.	1
"	Bossier,	1
"	Caddo,	1
"	Calcasieu,	1
"	Caldwell,	1
"	Carroll,	1
"	Catahoula,	1
"	Charles, St	1
"	Claiborne,	1
"	Concordia,	2
"	De Soto,	1
"	Feliciana, East	2
"	" West,	2
"	Franklin,	1
"	Helena, St.	1
"	Iberville,	2
"	James, St.	2
"	Jefferson,	2
"	John the Baptist, St.	1
"	Lafourche Interior,	2
"	Lafayette,	1
"	Landry, St.	3
"	Livingston,	1
"	Madison,	1
"	Martin, St.	2
"	Mary, St.	2
"	Morehouse,	1
"	Natchitoches,	2
"	Orleans,	15
"	Ouachita,	1
"	Plaquemines,	1
"	Pointe Coupée,	2
"	Rapides,	3
"	Sabine,	1
"	Tammany, St.	1
"	Tensas,	1
"	Terrebonne,	1
"	Union,	1
"	Vermillion,	1
"	Washington,	1
"	Jackson,	1
	Total,	79

It will be seen that one representative is allowed to each parish indiscriminately, and that 7000 inhabitants, (including slaves,) will be the mean increasing number that shall entitle a parish to an additional number. The reasons for this mode of apportionment are these, that without knowing what will be the ultimate cours

taken by the Convention upon this question of apportionment; and without pretending to be an oracle, as to the decision, from the current of private feeling I am led to believe that the old parishes of St. Helena, St. Tammany, Washington, St. Charles and St. Bernard, will not be disfranchised, but that a representation will be allowed them. Assuming that as a most probable result, there will not be, I presume, any disposition to make them exceptions, and consequently the new parishes will be entitled to an equal participation with them in the right of representation; therefore, no parish will be without its representative. For myself I cannot see any objection to this representation of political locality. So far as precedent is concerned, the rule will have a most beneficial tendency. The State of Massachusetts has the best local government in the Union. The town of Hull, where there is scarcely a dozen persons, has a representation. The principle in the constitution of that State is, that corporations shall be represented. The principle in my *project* is that each parish corporation shall have a representative, and the necessity for a restriction upon any parish is obviated by the increase of the mean increasing number, so that the legislature can never be composed of more than one hundred members, to be divided in strict accordance with the ratio established.

Among the extraordinary things, said Mr. Saunders, that have marked this most extraordinary discussion, is the pertinacity that has been manifested against slaves being considered a portion of the basis of representation. However extraordinary that may be, it is not yet to be compared with the attempt to connect this question of apportionment with the question of abolition. What has the external basis of political representation in Louisiana, to do with the question of slavery?

The gentleman from New Orleans, (Mr. Benjamin,) upon some occasion alluded to a portentious cloud that had risen upon the disc of our political horizon, which was at first no bigger than his own little beautiful hand, but which suddenly threatened to overcast the whole horizon. The gentleman had heard the roaring of the distant thunder, and admonishes us of our danger. He told us that the time was fast approaching when there would be among us but a single party for the protection of our firesides and our hearths. And yet, after all these solemn warnings, the gentleman protests against the policy of adopting the slave basis, and reads to us the speeches of Giddings, I suppose for the purpose that nothing should be left out of view.

One thing to my mind is clear—that slaves, whether considered as persons or property, are a just element of representation. If they be persons, in political parlance, well then the matter of representation is beyond a doubt. If they be property, they are productive property; and where they predominate, white labor of the same description is excluded; and hence white population will not abound. I certainly have not the remotest design to compare the poor man with the slave, when I insist upon the federal basis; but I consider my slave as the producer, and myself as the consumer; and in every country production and consumption afford a proper basis of taxation, and consequently of representation. One advantage of my proposition, to which I can safely allude, is that it obviates the necessity for a constitutional restriction upon the representation of the city, which is considered in a very objectionable point of view by the delegates from the city.

On motion of Mr. Downs, said project was ordered to be printed.

On motion of Mr. Dunn, the section under consideration and project were laid on the table, and made the special order of the day for to-morrow at 12 o'clock, M.

Mr. Mayo then moved the reconsideration of the vote on the adoption of section 3d of article 3d, viz:

"No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State, next preceding his election."

Mr. Guion called for the yeas and nays on the motion to reconsider, which resulted as follows:

Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, Leonard, McRae, McCallop, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott

of Feliciana, Scott of Madison, Soulé, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—30 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Kenner, Legendre, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Voorhies, Wikoff and Winder voted in the negative—28 nays; consequently said motion was carried.

Mr. MARIGNY obtained leave to change his vote.

Mr. McCALLOP having voted in the negative through mistake, moved that he be permitted to change his vote, and the yeas and nays being called,

Messrs. Brazeale, Brent, Carriere, Chambliss, Chinn, Claiborne, Covillion, Downs, Dunn, Eustis, Garrett, Humble, Hynson, Kenner, Ledoux, Leonard, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of St. Landry, Prudhomme, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—40 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cenas, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Legendre, Mazureau, Roman, St. Amand and Winder voted in the negative—18 nays; consequently the same was granted.

Mr. MAYO then moved to amend said section 3d, by striking out the word "fifteen," and insert in lieu thereof the word "ten."

On motion of Mr. SAUNDERS, the taking of the vote on the motion to strike out the word "fifteen," and insert in lieu thereof the word "ten," was postponed until two o'clock.

Mr. BENJAMIN informed the Convention that he would, before the adjournment of this day, submit a project of compromise on the question of apportionment, taking the whole population, including slaves, for the basis; which he moved might be printed, and taken up to-morrow with the project offered by Mr. Saunders. On the question to receive the project and print the same, the yeas and nays being called for, 52 voted in the affirmative and 9 in the negative; consequently the said project was received and ordered to be printed.

On motion of Mr. DUNN, the Convention then took under consideration the 10th section of article 2d, as reported by the majority, viz:

"The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by the persons entitled to vote for representatives, as follows:

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

"The parishes of Plaquemines, St. Bernard and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, shall compose the second district.

"The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

"The parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupée and Avoyelles, shall compose the fourth district.

"The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston shall compose the fifth district.

"The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

"The parishes of Rapides, Natchitoches, Caddo, Calcassieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

"The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

"*Provided*, That the legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators."

Mr. DOWNS moved to strike out the 10th section, with the view of offering the following minority report as a substitute:

The senate shall consist of thirty-two members, to be elected for four years by the voters qualified to vote for representatives, and at the same time, one-half every

two years; and the apportionment of senators shall be as follows:

The parishes of Plaquemines and St. Bernard, and that portion of the parish of Orleans on the right bank of the river, shall have one senator, 1

Parish of Orleans shall have,

First Municipality,	2	
Second "	1	4
Third "	1	

The parish of Jefferson,	1	
" St. John Baptist and St. Charles,	1	
" St. James,	1	
" Ascension and Assumption,	1	
" Lafourche and Terrebonne,	2	
" Iberville and W. Baton Rouge,	1	
" East Baton Rouge,	1	
" West Feliciana,	1	
" East Feliciana,	1	
" St. Helena and Livingston,	1	
" Washington and St. Tammany,	1	
" Point Coupée,	1	
" Concordia and Tensas,	1	
" Carroll and Madison,	1	
" Catahoula and Franklin,	1	
" St. Mary and St. Martin,	1	
" Lafayette and Vermillion,	1	
" St. Landry,	1	
" Sabine and Calcasieu,	1	
" Avoyelles,	1	
" Rapides,	1	
" Natchitoches,	1	
" Caddo and De Soto,	1	
" Claiborne and Bossier,	1	
" Ouachita and Caldwell,	1	
" Union and Morehouse,	1	
Total,	32	

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislatue, but shall not be attached to more than one district.

Mr. C. M. Conrad was not prepared to form a definite opinion as to the merits of the majority or minority reports, but it struck him upon the moment, that it would be better to adopt the principle of large senatorial districts than small senatorial districts. Whether the districts in the report of the majority were of the proper size, and of the proper territory, he was unable to determine from merely hearing the report read from the secretary's desk. He was of the opinion, however, in reference to the minority report, that the districts were too small. According to it, the senate would be but a miniaure house of representatives—a double house of representatives, with but one characteristic difference—greater inequality in representation.

Mr. Conrad thought that large districts would operate more favorably upon the character for intelligence of the body. It would be impossible for men with only a little local reputation to be elected. He instanced the great ability of the senate of the United States, probably the ablest body in the world, arising from the fact of their being selected from the States they represented at large. The same result, too, was attained, to a less extent, in the house of representatives at Washington. That body was confessedly superior to the local legislatures, and the cause was obvious.

Mr. Downs took a different view of the subject. He thought that government the best, where political power was divided into minute portions, and where it was not concentrated in the hands of a few. As for the gentleman's (Mr. Conrad's) argument that large districts would be more favorable to a superiority of intelligence in the body, we have in this convention the refutation of that theory. The members from the senatorial districts were not superior in point of intelligence, to those from the representative districts. There was nothing in that argument. The people would send the ablest men among them, whether the districts be large or small; and, after all, the senate is a representative body. It represents the people of a political division, and the constituency should be in as close contact with their senator almost as with their members of the house of representatives, It might happen that if the districts were large, one portion of a district would control another portion, and that those districts might be formed of territory that was not contiguous. Mr. D.

instanced the formation of the congressional districts. The third congressional district afforded a striking illustration. There the Florida parishes were put with parishes on the other side of the Mississippi, with whom they had but little intercourse. At first some pretensions to equality might be preserved between the parishes—there might be some compromises at first, but after a while the parish that had the nominal strength, would appropriate the senator to herself exclusively in perpetuity.

The hour of two having arrived, Mr. Mayo moved that the vote be taken on his motion to strike out from the 3d section of article 3d, the words "fifteen," and insert in lieu thereof the words "ten," and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soule, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—30 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferso, Culbertson, Derbes, Garcia, Grymes, Guion, Kenner, Labauve, Legendre, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Taylor of Assumption, Voorhies, Wodsworth, Wikoff, Winchester and Winder voted in the negative—34 nays; consequently said motion was lost.

Mr. Mayo then moved the re-adoption of the said section 3d, viz:

Sec. 3. "No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State, next preceding his election."

Which motion prevailed.

On motion, the Convention adjourned till to-morrow, at 11 o'clock, a. m.

Wednesday, March 5, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Hon. Mr. Stephens, a member of the Convention, in the absence of a minister of the gospel.

Mr. Saunders then moved that all discussion shall cease, and the vote be taken on the different projects submitted on the apportionment of the State, this day at 2 o'clock. He would not press this matter forward, but that he feels sure that all further discussion will only tend to make it a more vexed question; and in order to avoid all acrimonious feeling, he presses this motion on the attention of the Convention.

Mr. Taylor of Assumption, trusts that this motion will not prevail. He has but one or two remarks to make, in relation to his desire to lay it on the table for the present. One is, that to-day we shall have before us a motion to re-consider a very important question, which is made the special order of the day, to-wit: Mr. Wadsworth's proposition to re-consider the vote on the federal basis. There is another which is uppermost in the minds of the members, *restricting the city*; besides that we have two new propositions on the subject of apportionment before us, to consider of, as substitutes for the whole section. One of those propositions has been printed and laid on our table; the other one has not yet been brought into the hall, and of course we have had no opportunity to examine it. Now, Mr. President, said Mr. Taylor, it would appear very absurd on our parts if we were to undertake to vote, and perhaps upon a call of yeas and nays, on questions that we have neither read nor discussed. Why, sir, if we do this, we may as well say at once that all deliberative assemblies amount to but a farcical operation; and that debating on any question is an useless matter.

If the motion prevail, it puts an end to all discussion; it takes away our character as a deliberative assembly. He therefore hopes it will not prevail.

He wants to hear something as to the advantages embraced in these projects; he wants them laid open, and their plans developed; and it might happen in the course of the discussion that he would have a few humble remarks to offer himself, as would doubtless many others, from whose enlightened minds he would derive such information as might enable him to arrive at correct conclusions. Besides, he feels sure

that he is not alone in this situation, there are many others who want to be satisfied ere they are called upon to vote.

Mr. Marigny said he did not understand the way they were going to spring this federal basis upon us again. He hopes the vote will not be taken without giving to the members the right to discuss it, which they are clearly entitled to do. He is willing to give them all a chance, but he is not willing to have a gag law placed upon the members of this Convention.

Mr. Dunn thought Mr. Saunders, on this occasion, was out of order, a thing very unusual with *him*.

Mr. Saunders said that although he felt convinced he was in order, yet he would not press the motion. He remarked that it was dictated by the best of motives, to put an end to a discussion that could end in no good, as every body's mind, he thought, was made up; but he withdrew it, because he clearly saw that no man could play a card here, no matter how good, but what it was sure to be truped. He therefore withdrew his motion.

Mr, Scott, of Raton Rouge: From the diversity of opion which he had found, in conversing with the different delegates, was induced to think that we should first come to some settlement as to the removal of the seat of government; and he thought a compromise, satisfactory to all, could be arrived at. With that view he desired to offer a resolution which would reach the case, but

The President reminded him that the motion to re-consider, made by Mr. Wadsworth, was the first motion before the Convention; and that motion being called up,

Mr. Claiborne moved to lay said motion on the table, subject to call. He thinks that, as many projects have been submitted to the consideration of the Convention, some of which may, and doubtless do, approximate in some degree to the federal basis, it were better to take them up first, and see what they were; besides, it would be somewhat uncourteous to call up Mr. Wadsworth's motion, when he was not in his seat. He, therefore, presses his motion, to lay Mr. Wadsworth's motion to re-consider on the table, subject to call. This motion was sustained, when

Mr. Taylor of Assumption moved a re-consideration of the vote just taken. He thinks the Convention is placing itself in a very singular and strange position, for after having settled a very important principle, viz: the federal basis; and having yesterday agreed to take up two important matters for consideration early this morning, they are now laid over, to take up the discussion on other matters, unconnected with either of the questions. He is desirous of doing something, and not being at sea for ever.

Mr. Claiborne stated that his motion had been before the Convention, and it was then decided to lay it on the table, subject to call, which call would doubtless be made as soon as Mr. Wadsworth found a suitable moment, after he took his seat in the Convention; he being absent now, he hoped the motion to re-consider would not prevail.

The motion to re-consider was then put, and lost.

On motion of Mr. Downs, the next question taken up by the Convention, was the 10th section of the 2d article of the constitution; which is as follows:

Sec. 10. The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representativs, as follows:

All that portion of the parish of Orleans lying on the East side of the river Mississippi, shall comprise the first district.

The Parishes of Plaquemines, St. Bernard, and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Pointe Coupée and Avoyelles, shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcassieu, Claiborne, Sabine, Bos-

sier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, that the legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

Mr. Conrad desired to make two or three remarks—not particularly in reply to any remarks which Mr. Downs had made, but more especially to explain some remarks which he had himself made yesterday, and he took this opportunity to do so. Mr. Downs is mistaken when he thinks that he (Mr. Conrad) would or could affirm, that you could not find proper men in small districts, fit to represent the State in the senate. What he said was this, that such men were not likely to be selected, because in almost every section of the State there are large family interests which would operate prejudicially to the claims of men of talent, if the districts were made sufficiently small for them to bring family influence to bear, and that therefore we might possibly get an inferior man elected on account of such influence. That was his remark, neither more nor less. The member from Ouachita objects to the reduction of the number, because when the senatorial district was composed of a large number of parishes, there would necessarily be many who never would have the senator from their parish. But he seems to have forgotten, that under his own arrangement, that difficulty is provided for; for every parish is now to have a representative in the lower house, to attend to their local wants. It appears to him, therefore, *that* is sufficient to satisfy the different parishes, without letting each of them have a direct voice in the senate. A State senate is not regarded as the place where local matters are presented; that is properly pertaining to the lower house, while the senate has wisely been created to keep a check on improvident or hasty legislation in local matters; acting more for the general than for special interests. The great aim of modern republics in creating such a body, seems to have been accomplished, in making them answer as such check. There is amongst them, less feeling and passion, than is to be expected where representatives are contending for local benefits. And therefore the less interests they have in common, the more they serve as a check upon each other. Now suppose two men are elected, one to the legislature, the other to the senate, from the same parish, or from adjoining parishes, whose feelings and prejudices are identical, it is natural to suppose they have an identity of feeling on all questions that come up for consideration. In such a case, the aim of making the one body a check upon the other, is not accomplished; while on the other hand, it would be, if the senator were elected from a different neighborhood. He has repeatedly declared, that he did not advocate this report. He does not approve of eight senatorial districts, any more than he would of thirty. In the one case they would be too large, and in the other too small—he thinks a middle course decidedly preferable. As the matter now stands, we know there is great disproportion; for instance, St. Charles and St. John the Baptist, form one district; and Concordia forms another, Point Coupée another; these are altogether disproportioned, taking into view the present situation and size of the State.

He would prefer some person who is more acquainted with the localities of the different parishes—their population, and the several interests in each portion of the country, than he is, would take this subject in hand, and propose some plan by which we should stear clear of the two extremes—for it has ever been allowed to be one of the wisest sayings, "*in medio tutissimus ibis.*"

After Mr. Conrad had concluded his remarks, the Convention took up the

Order of the Day—which was,

Section 6th of the report of the special committee as amended, viz:

"Each parish shall be entitled to representation in proportion to the number of qualified electors in it; *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

The secretary then read the projects of Messrs. Downs, Saunders and Benjamin. The first was furnished in the report of the 3d instant, and the second in that of the

4th inst. The one offered by Mr. Benjamin, is as follows:

Sec. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation according to the total number of its population.

Sec. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

Sec. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one-half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any subject matter till the apportionment herein directed shall have been made.

Sec. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle, by assuming 4500 as a representative number,) shall continue until the first apportionment shall be made by the legislature, and shall be as follows, viz:

First Municipality,	9
Second "	8
Third "	5
West Bank,	1
The parish of Plaquemines,	1
" St. Bernard,	1
" Jefferson,	2
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
The Parish of Iberville,	2
" West Baton Rouge,	1
" East, do	2
" West Feliciana,	2
" East, do	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Point Coupeé,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	2
" Vermillion,	1
" Lafayette,	1
" St. Landry,	4
" Calcasieu,	1
" Avoyelles,	1
" Rapides,	3
" Natchitoches,	3
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	1
" Claiborne,	1
" Bossier,	1
Total,	86

Mr. O'Bryan thought the first motion in order was that of Mr. Mayo, to strike out one-fifth, and insert one-sixth; but Mr. Mayo, during the absence of Mr. Downs, when he wished to be heard on this question, withdrew his motion, and moved that the next in order be taken up, which was that of Mr. Saunders.

Mr. Miles Taylor is of opinion, that if taken up in the manner proposed, that they should all go together.

Mr. Mayo pressed the consideration of Mr. Saunder's project.

Mr. Marigny differed with the gentleman from Ouachita. He thinks Mr. Benjamin's proposal is clearly the one first in order. He offered it as a compromise of this vexed question, and the house agreed to consider it first as such.

Mr. Mayo, desirous of beginning somewhere, agreed that Mr. Benjamin's plan should be first called up, and so moved.

Mr. Downs, however, thought it would be better to take up the report, and then adopt one or the other of the proposed substitutes.

The question was put on Mr. Mayo's motion and carried. The compromise substitute, offered by Mr. Benjamin, was hen before the Convention.

Mr. O'Bryan then moved to lay that substitute on the table indefinitely.

Mr. Downs rose to explain his views in seconding the motion of Mr. O'Bryan, to lay the substitute of Mr. Benjamin on the table. He does not do so with the view of rejecting it on slight grounds. This is offered as a compromise, he, (Mr. D.,) wants a compromise; and he is satisfied that the question cannot be settled otherwise. He now thinks that a compromise can be made in this matter; and it is with that feeling he approaches the subject. He wants a compromise that will be satisfactory, both to the city and to the country. He thought the proposition of the last committee, limiting New Orleans to one-fifth, would have met the general approbation of all sides of the house; but like all other projects, it seems to be not satisfactory. It is very hard to satisfy either party at first; both sides have objections to any measure of compromise, when first presented; and it is very natural they should have; for man is too prone to think himself infallible, as well in the city as in the country; but when they come cooly and calmly to reflect on any measure, their previously expressed opinions gradually yield to the force of truth and reason. He, Mr. Downs, does not expect any project, based on a compromise, to be taken at once; it is contrary to our nature to receive at first, that which is opposed to our pre-conceived opinions.

Mr. Benjamin, with that spirit of truth and candor for which he is justly distinguished, has come into our midst in the spirit of conciliation and harmony; has made a suggestion which will lead to good results; he is endeavoring to throw oil on the troubled waters, it would seem, and if any good should result from his offer, (which, he, Mr. Downs, trusts there will,) to him alone, should belong the honor and the credit of the final settlement of this difficult question. I allude to the admission in his speech that it would be just and fair to reduce New Orleans one-fifth not to his project, so called, which is no compromise at all.

Mr. Benjamin has admitted that a necessity does exist for restricting the powers of the city; and he has explained it to you in so clear and concise a manner, that I am willing to take what he has said for granted, without amendment. He claims a fair and full representation for her, in the first place, under any basis which may be established, (and we have established the electoral basis;) although he, Mr. Downs, is willing to take that or the federal basis, and then deduct one-fifth from representation, to be divided amongst the country parishes, to counter-balance the influence which a concentrated vote would have. He, Mr. Benjamin, went further; he said that after duly weighing the matter, he was compelled to say that it was nothing but justice, that each parish should have one representative at least. He found that the new parishes were no smaller than the old parishes; and that they had as large a population. In all this he has acted in a frank and manly way, and come to the position first opened by me. Indeed it is clear, that where all are placed on an equality; on the same platform, where the same feelings and interests are identified, (as they are, New Orleans excepted,) between every parish of this State; that no distinction should be made. He, Mr. Downs, wants no advantage taken of the admissions of Mr. Benjamin; so far from injuring the cause which he has been upholding, he, (Mr. B.,) has strengthened it; and by giving up his untenable points, *he has strengthened all the others.* He feels certain that Mr. Benjamin has thereby acted for the best interests of his constituents; and that his course shows him to be a good logician, a man of sense; and thereby has only exemplified an old saying, that "one good reason is better than five hundred bad ones." No man comes here to fight for power; all we desire is right and justice, and if we could get more it would be impolitic, for "truth is mighty, and will prevail." And I am free to confess, that I have become convinced, from the arguments of Mr. Benjamin, that we from the country are likely to be met

in a better and more conciliating spirit, by the city, than was at first evinced—something is now conceded—we have now made some progress, and I think we shall and may agree.

But there is one element of power in which they have greatly the advantage of us, which has not yet, I believe, been adverted to—and to that I desire, said Mr. Downs, to call the attention of the Convention—and that is, the press of the city, which have always united in favor of the city. That is, and always has been, a powerful lever. Just look at them for the last week. There are only two democratic papers in the city, and being a democrat myself, I naturally looked first into them. In the first one, I found, to my surprise, that they were opposed to the interests of the country. Well, thought I, that is surprising; and so I turned to the other, and I found that one more strongly in favor of the city and opposed to the country interests than the first one. Now, suppose we have the legislature established here; with the influence of the press, combined with the legislative power they ask, the country will truly be swallowed up by the overshadowing influence and power of the city; and that is one of the strongest reasons why she ought to be restricted.

True, we have country presses, and they are bold and fearless in the cause of the country and the people's rights; but then their voice cannot be heard, ere it will be too late to check any pernicious scheme that may be proposed. When the principle of restriction is admitted generally, as it is by Mr. Benjamin, it will only then remain for us to determine the extent of it. Mr. Benjamin thinks that after having ascertained the precise amount which the city is entitled to, on any basis that may be agreed upon, that a deduction of one-fifth is reasonable, and those country members with whom he (Mr. Downs,) has had an opportunity to converse with, seem to think favorably of the proposition. But at the same time he (Mr. D.) feels bound to say, that Mr. Benjamin's supposition that New Orleans would be entitled to one half of the representation, less one-fifth, is quite erroneous; and about as much so as the argument he advanced as to the tax on professions and auction sales, being paid exclusively by the city. Just let them construct another Chinese wall around the city, and keep out the products and people of the country—then see where they will be, and how many professional men, or auctioneers, will have any thing to pay into the treasury. It cannot be said to be paid by the country altogether or by the city altogether; but when they say, as they do, that the city can get along without the country, it reminds him of a story he once heard, of two yankee boys, who shut themselves up in a close room and swapped jackets all day, until they had made five dollars a piece. So it would be with the merchants and traders of New Orleans, if you cut them off from the trade of the country—they would have to go to swapping their goods with one another for a living. The tax, then, is paid by the whole people, by the merchants, mechanics, farmers and planters—the latter's proportion in the profits made out of them by the former.

The supposition of Mr. Benjamin is incorrect in another point of view. He seems to think that New Orleans contains one half of the white population in the State—but he (Mr. Downs,) does not think it is even one third; and therefore, although he is willing to agree with Mr. Benjamin in his first proposition, he declines agreeing to the last premises which he has advanced—he thinks they are erroneous.

The question then proposed by Mr. Benjamin is, to give New Orleans her proper apportionment; (less one-fifth for her concentration,) that would be fair. I will, so far as I am concerned, accept the proposition. It did not, perhaps, occur to the gentleman that to reduce New Orleans *one-fifth*, and to limit her to one-fifth of the whole representation of the State, amounts to very nearly the same thing. This at first appears a paradox, but it is not so. There are six basis of representation embraced in this tabular statement of the subcommittee, which has been printed and is in the hands of all the members:

First is on white population with the representation number, or as Mr. Beatty prefers to call it, a divisor of 1746, which gives New Orleans thirty-four members.

Second is on federal population, with a divisor (see how I follow a good example,) of 3,222, which gives New Orleans twenty-nine members.

Third is on the basis of voters, with a divisor of 490, I suppose, calculated on the

voters of 1844; for this is not stated in the table, which gives New Orleans eleven members instead of forty-seven, as erroneously stated in the table.

Fourth is on the basis of the white population, with a divisor of 3,676, which gives New Orleans twenty-eight members.

Fifth is on the basis of 1844, with a divisor of 276, which gives New Orleans twenty members.

And sixth on federal numbers in the tax roll of 1843, and a divisor of 3,636, which gives New Orleans twenty-three members.

Now taking one-fifth off of each of these numbers for New Orleans and not calculating fractions, but taking the nearest full number above or below to simplify the calculation, and New Orleans would have by number one, thirty-four members, less 6 80-100, equal to twenty-seven members. By number two, she would have twenty-nine, less six, equal to twenty-three members. By number three, she would have eleven, less two, equal to nine members. By number four, she would have twenty-eight, less six, equal to twenty-two members. By number five, she would have twenty, less four, equal to sixteen members. By number six, she would have twenty-three, less five, equal to eighteen members.

The average for the whole six would be, for New Orleans nineteen members; for four of them, leaving out the extreme numbers of two or three, the average would be 19 75-100 members, say twenty members for New Orleans, about one-fifth of a number of representation, varying from eighty to one hundred, and as near as may be to one-fifth of the number suggested in the substitute offered yesterday.

How would this work in the future? favorably to New Orleans certainly, but not so favorably as to make it dangerous. Probably at the next apportionment, especially if not made for four or five years, a divisor on voters basis would be taken off, perhaps not less than five hundred. This applied to New Orleans with a vote of fifteen thousand—and I do not think it will exceed that for many years, considering how much the residence of two years for citizens of other States and naturalized citizens will curtail her—would give her thirty members, less six, equal to twenty-four, which would be one-fourth of one hundred; and by increasing the divisor, say to six hundred, this could be reduced to twenty five, less five; just twenty, equal to one-fifth of a hundred, and this by fixing the divisor at a proper point, the proportion might be so regulated as to have a reduction of one-fifth on her full number, just equal to one-fifth of the whole representation of the State. But to prevent this enlargement of the divisor from disfranchising small parishes, the principle ought to be adopted, that each parish ought to have one representative.

The calculations I have made here, it must be admitted, are not mine. They were suggested by an examination into the project of Mr. Benjamin. You admit two principles,

1st, that the city ought to be restricted one fifth of the proportion of representation, and

2d, that each parish shall have at least one representative.

One fifth taken from the political power of the city, I think, Mr. President, will be satisfactory to every portion of the State. He, (Mr. Downs,) found no fault with the city members for their course in this matter. On the contrary, he is pleased to see them stick up to their duty in the protection of their local interests. By this compromise you get one fifth of the representation, on a population of 100,000. You have in addition every other advantage, for it is well known and admitted that the influence of cities over the country is enormous. It is a well known and admitted fact, that Paris governs France; London, England; and in ancient days, Rome was considered not only mistress of Italy, but of the world.

So it may be with New Orleans. Her advantages are immense. Her commerce, her manufacturing interests, her increasing population, and the march she is making in spreading throughout the country the fine arts; by the concentration of talent constantly to be found in her city, is but the dawn of a bright futurity for her. Look at New Orleans as she was forty years ago, and then look at her now. She was *then*, truly, compared with the present moment, as a molehill to a mountain. This has been produced by her peculiar geographical position, and by the industry of her citizens, aided by the power of steam; and truly she has increased as if by magic power. Well, if she has increased in the last forty years

as we know she has, what may we not look forward to for the future. She can now place one foot on the Allegheny or Rocky mountains, and the other on the isthmus of Darien; for she commands the trade of the whole valley of the Mississippi and its tributary streams on the one hand, and the full trade of the Gulf of Mexico on the other; and should the commercial world, (for they alone can or will do it,) connect the Atlantic and Pacific oceans by a canal from Chagres to Panama, there will be no end to her prosperous course. God speed her, say I, (said Mr. Downs,) in her forward course, if you but deprive her of the power plitically, to unjustly deprive the balance of the State of their just rights.

Mr. Taylor then addressed the Convention at considerable length, in reply to Mr. Downs, to which he briefly rejoined, and

Mr. Dunn then moved to adjourn, but before the adjournment, Mr. Trist was on motion of Mr. Kenner, excused for his non-attendance, on account of sickness.

The Convention then adjourned till 11 o'clock to-morrow morning.

Thursday, March 6, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Preston opened the proceedings with prayer.

ORDER OF THE DAY.

The project submitted by Mr. Benjamin for the apportionment of representation.

The question pending was on the motion of Mr. O'Bryan, to lay said project indefinitely on the table.

Mr. Dunn said he hoped the motion of the gentleman from Lafayette (Mr. O'Bryan) would not prevail. Under present circumstances he thought it ought not to prevail. This subject had been for some time under consideration. It involved a most vital question in government, and one which in its settlement was invariably attended with great and innumerable difficulties. The inequality in representation was one of the principal causes for the call of this Convention. Mr. Dunn alluded to the restricted voice which was allowed to the Florida parishes in the legislation of the States. It was manifestly disproportionate not only in reference to the population, but to the wealth and intelligence of that portion of the country. It may well happen that we may not concur in the details of this proposition. But it is offered as a compromise, and as such it ought to be sustained; it ought to be calmly and dispassionately considered, and patiently discussed.

I know, said Mr. Dunn, that an opinion prevails in the city, that there is a prejudice entertained against her in the country. I think that impression has no foundation. I disclaim it for my constituents and myself. I entertain no prejudice against any portion of the State. There is no such feeling in my bosom. I entertain, it is true, a settled conviction that the country should retain the preponderance of power, because I conceive it is essential to the safety and perpetuity of the institutions of the State—that it is called for by the peculiar position of the country; and is, in a word, as necessary for the protection of the interests of the city as for those of the country. I may, perhaps, in view of the exigencies of the case, insist upon more than the delegates from the city are willing to accord, but if we differ, and a difference of opinion here is quite natural, we honestly differ. My colleagues from the country and myself are actuated in this particular, at least, I am sure, by the purest motives, and I am ready to concede similar motives to the city delegation. The love of power is inherent in the bosom of every man, and there will always be a struggle for its possession. This subject is one within the peculiar domain of compromise, and in the spirit of compromise I am ready to adjust it on fair and reasonable grounds. Some members on both sides appear disposed to assume extreme grounds, and then contend that they will not compromise because principle is involved, and principles ought not to be compromised. This is a fallacious doctrine, and if it were acted on by each member of this body the formation of a constitution would be a work of impossibility. Are gentlemen so wedded to their peculiar notions as to think that a difference of opinion cannot, by any possibility, be justified? If this be indeed their conviction, then argument and reason are superfluous.

I think that the federal basis is appropriate to our condition. It is suited to our mixed population—to the agricultural pursuits of the country, where the operative population are slaves; and to the elements forming our great commercial metropolis,

where white operatives, to a considerable extent, are destined to supersede slave operatives. By whom are the countless bales of cotton—the innumerable hogsheads of sugar that encumber your levees, and which add to the wealth of the city, produced? Is it not by our slaves in the country; and whether you classify them as property or as persons, are not their proprietors entitled to some representation for their protection, and the protection of that labor? Most assuredly. There is nothing unreasonable in the demand, nor can it be said that to grant it involves a sacrifice of principle.

Mr. Dunn avowed himself ready to concede all that could be conceded, to settle this question to the mutual satisfaction of all. He did not desire to deprive the city of her just and proper proportion of power. He wished that to be distinctly understood, but at the same time he could not consent that the country should yield up one tittle, one jot, of what was really her proportion of political power. If the question was proposed to be compromised, so that the country should have the necessary guarantees for safety, he was ready to accede to that proposition. In relation to the smaller parishes, Mr. Dunn avowed himself favorable to their retaining a separate representative, but to enable them to do so, some rule should be adopted which would not necessitate the relinquishment of any portion of the representation accruing to the larger parishes, from whatever basis should finally be adopted by the Convention. To his conception, the representatives of the larger parishes had no authority to consent to give up any portion of their political power, in order that it should be transferred to a parish deficient in population. For his part, he could not, nor would not, assent to it, on behalf of his constituents. If this difficulty could be obviated, and it might be readily obviated, by placing the representation number sufficiently low to admit of the separate representation of the smallest parishes, he would give such a plan his assent. At the same time it would be proper not to enlarge the total number of representatives beyond reasonable bounds—although some increase might well be made to accommodate the smaller parishes, from the peculiar exigencies of the case, as well as from the fact that the legislature was to meet only biennially, and by the abridgement of the sessions, the expenses would be thereby considerably lessened from what they have heretofore been, even although the number of members should be augmented.

Mr. Dunn trusted that all selfish and sectional feelings would be discarded; that the members of this body would meet this question in a spirit of mutual compromise, and that, like a band of brothers, they would settle it without asking or making improper sacrifices. He would not participate in a victory obtained over the just and equitable rights of any section. Such a triumph would be evanescent. It would be of short duration—it would be a victory of which the majority should not be proud. There would be a reaction, and the torrent of popular opinion would destroy the work that had been done. It was better to deliberate a month longer than to take a forced vote. It was not only necessary that we were convinced ourselves that we were right, but we should also use every effort to convince those who differed in opinion with us that they were wrong, and give them a full opportunity of convincing us that we were really about perpetrating the gross and glaring injustice of which they so vehemently complained. The union of the States was the work of compromise. It is of the very essence of popular governments that there needs must be compromises. We were forming a constitution for ages—for posterity—not a mere legislative act that could be instantly undone if it did not answer public expectation. Without compromises this great and glorious nation would never have gathered the profits of its revolutionary struggle. It would have relapsed into its past state of colonial vassalage, or the States might, perhaps, have maintained a precarious and uncertain existence as rival petty sovereignties, exposed to perpetual struggles with one another and to internal commotions.

We have a striking example, said Mr. Dunn, on a recent occasion of our national history, how effectual was the spirit of compromise to preserve the union from internal strife, and to avert a terrible calamity. One of the confederated States of this Union conceiving that her interests were sacrificed by the majority, proceeded to the very utmost verge in resisting the authority of the federal government—declaring that the particular law against which she complained,

should not be executed within her borders. Every one felt that a fatal crisis was at hand, and that the durability of our institutions were put to the severest test they had ever encountered. Dismay and apprehension pervaded every bosom as to what would be the result upon our institutions of this unfortunate collision, which seemed to be so inevitable, when the great statesman of the west, bade the troubled elements of the commotion to be calm, and in the spirit of compromise offered the olive branch of peace. His interposition was effectual—the lowering clouds disappeared from the horizon—the integrity of the union was maintained, and not one drop of American blood was spilt! This was the happy result of compromise. Let us then cherish that policy, and by respecting the rights of all, endeavor in the spirit of mutual concession, so to accommodate and to reconcile these rights as to preclude every cause for contention and jealousy between the various sections of the State.

I hope, Mr. President, that this project will not be laid upon the table, but that it will be taken into consideration, examined dispassionately and calmly, according to its merits, and in the spirit which has been avowed by its mover.

Mr. Benjamin said, that one of the most difficult subjects to be adjusted in a republican government was this very question of apportionment. Each fractional division of the community was anxious to participate in the distribution of political power, and was fearful that its neighbor should possess too much power. It was one of those questions where each one might well enough be distrustful of his own judgment. How can any one expect that he can induce those who differed with him to change their opinions, when he begins by telling them that he is impractically wedded to his own—and that whatever may be their arguments, he will not change that opinion. This question, I am sorry to see, has been discussed in such a spirit of intolerance as to have caused much warmth of feeling, and to have provoked personalities that ought to have been avoided. Hence I have consulted our past history, with the view of ascertaining if there were no examples which would induce us to meet on some middle ground—some ground of compromise.

One of my brother delegates (Mr. Roselius,) has told us that he will never consent to a compromise of principle, and so persuaded is he that he is right in that doctrine, that I have no hopes of inducing him to yield his support to my proposition. I think he is wrong, and I regret his determination. With similar resolutions, it may be said to be impossible to form a constitution. We have the knowledge that there were great divergences of opinion in the federal convention—and it is a notorious fact, that the constitution never would have been formed had there not been mutual concessions on the part of its illustrious framers. If a similar spirit had not pervaded the Virginia convention, to which reference has so frequently been had, and in which some of the same distinguished men participated, the constitution of that State would never have been formed.

Whoever, said Mr. Benjamin, has watched the progress of this debate, will admit that the pervading spirit of the majority, is to restrict the city of New Orleans, and to deprive her of a just portion of her representation, on the plea that it would be dangerous to the country, were justice meted out to her upon the principles and in conformity with an equal and uniform representation. It appears that the delegation from the city must make concessions to these fears, or withdraw from the Convention. There is no other alternatve. I am as anxious as my colleagues can be to insist upon the just proportion of power belonging to the city, but as I am met by the determined and impracticable resistance of the majority of this body, I am willing to make some concessions, provided the country is disposed to meet us in something like a similar spirit—and will not expect the city to make all the sacrifices.

I freely admit that I do not desire to see the preponderance of power in the city; and I think that the arguments adduced by the country members on that point, have remained unanswered. They have told us that the principle of uniformity and equality, however good and rational in itself, cannot be maintained under the peculiar circumstances in which the city and State stand towards each other. That the city has a concentrated and compact population, while the country is comparatively but sparsely peopled, and abounds, from its agricultural

pursuits, in a particular class of working population that are less numerous in the city than in the country, and which may finally be confined to the country. They insist that even if there were any thing like equality between the city and the country in their representation, the latter would virtually be the possessor of the balance of power, inasmuch as the country is divided and subdivided into parishes, between whom there is a conflict of interest, and some local prejudices; and that the city, acting as a unit, would have a decided advantage in controlling the destinies of the State. Here again I am under the necessity of admitting, however I may differ from my colleagues from the city, that these arguments have not been satisfactorily controverted by us. We must endeavor so to apportion the representation, as to preserve a just balance between the town and country.

I am satisfied that my constituents will approve any arrangement of this difficult question that may be made upon a basis of reciprocity, which will not exact all the concession on their part, but which will, in a spirit of compromise, be met with concessions on the part of the country.

The proposition which I had the honor to submit, and which is now before the Convention, for its decision, has this striking advantage, that it is based on equality and uniformity, and that principle is strictly adhered to—the only point of concession on the part of the city is in this, that the apportionment under it is not as favorable to the city as to the country. But there is no exception in it. It is not like the proposition of the gentleman from Ouachita, (Mr. Downs,) which acknowledges the principle of equality and uniformity, and then sacrifices that principle to an odious exception against the city. The effect of either may be the same, but my proposition avoids a special restriction upon the city. That restriction would produce ill feelings and would never be acquiesced in, because it is based on a revolting exclusion of a particular section. It would wound and rankle the feelings of the people of the city. By my compromise there is a mutual concession, and by natural causes the effect favors the country.

Mr. Benjamin concluded by hoping that his proposition would receive a favorable hearing, both from the members from the country as well as from his colleagues from the city.

Mr. Taylor of Assumption, moved that the taking of the vote on the motion of Mr O'Bryan to lay indefinitely on the table the project of Mr. Benjamin, be postponed until to-morrow at 2 o'clock p. m.; and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Brent, Briant, Carriere, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Dunn, Garrett, Grymes, Hynson, Legendre, Leonard, McCallop, McRae, Marigny, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Stephens, Taylor of Assumption, Wederstrandt, and Wikoff—38 yeas; and

Messrs. Brazeale, Burton, Chambliss, Covillion, Humble, Mayo, O'Bryan, Peets, Porche, Porter, Scott of Madison, Waddill and Wadsworth—13 nays; consequently said motion was carried.

Mr. Taylor of Assumption, then called up the following section, submitted by Mr. Scott of Baton Rouge, viz:

Sec. — The seat of government shall from and after the year be permanently located out of the city of New Orleans, and not within a distance of miles from the said city.

Mr. Taylor thought that the question of the seat of government being once decided, it would be easier to come to a solution of the question upon apportionment.

Mr. Grymes took this occasion to express his concurrence in the views expressed by Mr. Benjamin upon the subject of his (Mr. Benjamin's) compromise. He thought with that gentleman that the city ought not to be invested with an absorbing influence over the country. In reference to the seat of government, Mr. Grymes said he considered it to be of no great value to the city himself, although it was quite likely that some of his constituents might regard it in a different light. What was of greater value in his eyes was, that the city should not be despoiled of her just relative weight in the legislation of the country. That was all he asked for, and if the removal of the seat of government were essential to attain that object, he was ready to give it up. He would give it up

as a part of the compromise to ensure the city something like a fair representation—for a mess of pottage.

Mr. Humble moved to postpone said section until the Convention take under consideration the general provisions.

Mr. Humble said he preferred the project of Mr. Downs to the other projects that had been presented. It was the most equitable and just for the country; and he hoped the question of apportionment would be first disposed of.

Mr. Humble's motion was lost.

Mr. Chinn then offered the following substitute, viz:

At the first session of the legislature after the adoption of this constitution, a law shall be passed locating the seat of government at the town of Baton Rouge, in the parish of East Baton Rouge.

Mr. Porter opposed the motion to take up the substitute, or to act upon the matter in its present shape. He was himself favorable to a removal of the seat of government from New Orleans, but where it should be placed was a matter upon which public opinion had not pronounced. It was not for the Convention to take upon themselves to decide that question. Nor did he think it proper on other grounds, that this decision should be made by the Convention, and incorporated into the constitution. There were elements of strife enough in this Convention, without originating a new bone of contention. Whatever might be said to the contrary, the city desired to retain the seat of government, and if such a section as that offered by the delegate (Mr. Chinn) were passed, it might be employed as a means to cause the rejection of the constitution by sectional appeals, particularly in the city of New Orleans.

Mr. Humble expressed similar views to those enumerated by Mr. Porter.

Mr. Winder submitted the following substitute, viz:

Resolved, That the first general assembly to be elected under this constitution, shall determine upon the place where the seat of government of this State shall be permanently located from and after the first day of January, 1850; provided, that it be not fixed in the city of New Orleans, nor less than sixty miles from the same, by the usual route of travelling.

Mr. Scott of Baton Rouge, said that the solution of this question would determine some of the difficulties that grew out of the question of apportionment and for that reason, he trusted it would be first disposed of.

Mr. Read thought that the seat of government should be transfered from New Orleans. Large cities were not the appropriate places for the functions of popular governments. The conflict of interests, and the most weighty considerations of public policy, had induced most of the States of the Union to transfer their seats of government into the interior. The necessity was more particularly applicable to the city of New Orleans. What have we here? A floating population, with divergent feelings and interests. The influence of the city could not be otherwise than pernicious to sound legislation, and if we were to trace the prolific causes of our public debt, and our extravagant expenditures, we would find it in the seat of government being located in the city, and subject to its commercial impulses. Never, said Mr. Read, was economy and prudent legislation more essential to the salvation of the State. In taking the seat of government from New Orleans, independent of all other considerations, we shall diminish our public expenses very considerably. The public property in the city where the legislature convenes, could be sold to great advantage, and with one half of the amount realized, and probably less, more suitable and appropriate buildings could be procured in the country for the reception of the public officers.

Mr. Dunn hoped that the expression of a willingness on the part of the New Orleans delegation to give up the seat of government, would be taken in connection with the proposition of Mr. Benjamin, as a part of the compromise assented to by the city. If it were so considered, he would move to substitute Jackson for Baton Rouge. Jackson was his first choice.

Mr. Porter would inquire whether this was a regular bargain entered into out of doors?

Mr. Dunn replied, he saw nothing in this matter that savored of bargain or corruption. If the question of the seat of government were settled by its removal from the city, the influence of the city over our legislation would be to some extent impaired, and the question of apportionment *pro*

tarte, would have fewer difficulties. He saw no reason why the Convention should not fix the seat of government. It could be more effectually done by the Convention than by the legislature. In the legislature there were various concurrences to be obtained before the measure could be consummated, and it might be defeated against the wishes of the people. It might be lost in the senate, after it had passed the house of representatives, or it might pass both houses and be vetoed by the governor. It was exposed to many casualties if left to the legislature, and the better plan was for us to decide that question as the immediate organs of the people.

Mr. Conrad of New Orleans, was somewhat surprised at what fell from the gentleman from East Feliciana, (Mr. Dunn) on the subject of the removal of the seat of government being offered as a compromise on the part of the city. He (Mr. Conrad) disclaimed the remotest knowledge of any such compromise. He considered the two questions as entirely distinct—the removal of the seat of government, and the apportionment of representation. He thought the question of the removal of the seat of government, was best committed to the legislature. It was a question for the decision of the legislature, and not for the decision of the Convention. The experiment had been made to take the seat of government from New Orleans, and it had proved abortive. The year succeeding, the legislature returned back to the city, and it was frequently here asserted, that this country legislation was not very remarkable for its sagacity. The question after all was nothing more than this, which village or town shall have the honor and profit of feeding the members of the legislature for a given time.

Mr. Benjamin said that he had understood that certain members of the Legislature had expressed the opinion that if the seat of government were taken out of the city, they would be disposed to act with less rigor towards the city in reference to her representation. He had no objection that the question of the seat of government should first be decided, and if its decision were to exercise a favorable influence upon the question of apportionment, he would be glad to have the benefit of that influence for his proposition. But he would certainly vote against the removal.

Mr. Voorhies submitted the following substitute, viz :

At the first session of the legislature under this constitution, a law shall be passed to fix a suitable location for the seat of government of this State, which shall take effect in the year 1850; and shall not be subject to any change before the year 1870, and every twenty years thereafter, if deemed proper and expedient.

Mr. Wadsworth thought it an erroneous idea to suppose that the city of New Orleans exercised any control over the legislature, because it was the seat of government. The question at any rate, properly belonged to the legislature. There was certainly less apprehension of any influence directed towards the legislature being pernicious in the city than in the country. The city was the focus of all the interests of the State, and the legislature were sure to be in possession of both sides of every question. Say what you will, New Orleans was the centre of all information. The idea that was put forth by some persons, that the members of the legislature were seduced from their line of duty in the city, was a most humiliating reproach. Will any member of this body admit that any attempt has been made to seduce him with a plate of gombo, or a stuffed turkey. Yet this was the silly slang that was heard whenever it was proposed to take the seat of government from New Orleans. The Legislature had tried the experiment once, and it had signally failed. They have had the power for thirty-two years, to remove the seat of government, and have done so but once; and immediately afterwards, they repented and brought it back—a sufficient proof that it is best located where it is.

Mr. Beatty moved for the previous question.

The President then put the question, "shall the main question be now put?" which motion prevailed.

Mr. Voorhies then moved to lay indefinitely on the table the said section, and the yeas and nays being called for,

Messrs, Benjamin, Boudousquie, Carriere Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Eustis, Garcia, Ledoux, Legendre, Marigny,

Mazureau, Porche, Preston, Roman, Roselius, St Amand, Soule, Voorhies, Wadsworth and Winchester—23 yeas: and

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Briant, Brumfield, Burton Chambliss, Chinn, Covillion, Downs, Dunn, Garrett Humble Hynson, Kenner, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott, of St. Landry, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Waddill, Wederstrandt, Wikoff and Winder—40 nays. The motion was therefore lost.

Mr. Beatty moved to fill the blank with "1849," and the yeas and nays being called,

Messrs. Aubert, Beatty, Benjamin, Bourg, Brumfield, Burton, Carriere, Covillion, Garett, Hynson, Kenner, Labauve, Leonard, McRae, Mayo, Prescott of St. Landry, Preston, Pugh Read, Scott of Baton Rouge, Scott of Feliciana, Soule, Stephens, Waddill, and Wikoff voted in the affirmative—25 yeas; and

Messrs. Boudousquie, Brazeale, Brent, Briant Cenas, Chambliss, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Downs, Dunn, Eustis, Garcia, Humble, Ledoux, Legendre, McCallop, Marigny, Mazureau, O'Bryan, Peets, Porche, Porter, Prudhomm, Ratliff, Roman, Roselius, St. Amand, Scott of Madison, Sellers, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the negative—37 nays; consequently the motion was lost.

Mr. Wederstrandt then moved to fill the blank with "1848;" the yeas and nays being called for,

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Covillion, Downs, Dunn, Garrett, Humble Hynson, Kenner, Labauve, Leonard, McCallop, McRae, Mayo, O'Bryan Peets, Porter, Prescott of St Landry, Preston, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Waddill Wederstrandt, Wikoff and Winder voted in the affirmative—39 yeas; and

Messrs. Aubert Benjamin, Boudousquie, Briant, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Eustis, Garcia, Ledoux, Legendre, Marigny, Mazureau, Porche, Prudhomme, Roman, Roselius, St, Amand, Soule, Voorhies, Wadsworth and Winchester voted in the negative—25 nays; said motion was carried.

Mr. Marigny moved that the Convention adjourn till to-morrow at 11 o'clock, a. m., and the yeas and nays being called,

Messrs. Benjamin, Boudousquie, Briant, Brumfield, Cenas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Garcia, Kenner, Ledoux, Legendre, Leonard, McCallop, McRae, Marigny, Mazureau, O'Bryan, Porche, Porter, Prescott of St. Landry, Preston, Ratliff, Roman, Roselius, St. Amand, Scott of Madison, Soule, Stephens. Wadsworth, Wikoff and Winchester voted for the adjournment—36 yeas; and

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Burton, Carriere, Chinn, Covillion, Downs, Garrett, Humble, Hynson, Labauve, Mayo, Peets, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Taylor of Assumption, Voorhies, Waddill, Wederstrandt and Winder voted against the adjournment—27 nays; consequently the motion was carried.

Friday, March 7, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings by prayer.

The journal was read and approved.

Mr. Ratliff offered the following resolution:

Resolved, That the sum of one hundred and forty-seven dollars be allowed D. O. Nadaud, as a remuneration for that amount paid by him to an assistant, to enable him to keep his records up with the proceedings of the Convention, and that the committee on contingent expenses be authorized to pay the same.

Mr. Ratliff explained that it was the opinion of himself and another member of the committee on contingent expenses, that the allowance asked for in this resolution, was nothing more than just and proper; and on the score of economy alone, it ought to be allowed. The duties which were imposed upon Mr. Nadaud were very heavy, and in transcribing the journal he has already had to employ a young man to

help him, to whom he paid one-half of his salary. Mr. Read had examined the books with him, and found the work well and faithfully done. In addition, he was charged with the duties of clerk to the committee on contingent expenses; he had to make out all the warrants for the members, and keep a regular account of them. That he had done so with great fidelity and care, and was always prompt, obliging and efficient. He thought, as the labor was too much for one man to perform all these duties, that it was economical to permit him to select a young man to aid, as it was done at a less expense than the hiring of another clerk.

Mr. Voorhies moved to lay the resolution on the table, subject to call. It appeared to him that we have many clerks who are half their time idle, and who ought to have been employed at that business; as it now stands, we have no information on which to base any action, to appropriate such a sum of money as asked for.

Mr. Ratliff further explained, that in addition to what he had already advanced, he would simply state, that Mr. Nadaud had been a general runner for this Convention, between the hall and the treasurer's office on Canal street; and further, his work was more than one man could do; that it was by his advice Nadaud had engaged that young man; because he thought it would be cheaper. In the legislature he found errors would creep into the accounts of the committee on contingent expenses, and he thought it would result in saving money, by employing Mr. Nadaud to attend to those duties. He preferred it to coming before the Convention to ask for another clerk. Upon examing the records he has found as many as fourteen pages to be copied in a large book. Mr. President, said Mr. Ratliff, I speak knowingly on this subject; whenever any call is made upon me to take any thing out of the treasury, I have invariably made it a rule to investigate the causes which are said to have produced the necessity for allowing it. I have found that it was necessary that the sum claimed was a fair remuneration to pay the person whom Mr. Nadaud has employed; he was employed by my advice, on the score of economy, and I do hope this Convention will not boggle any longer about this small matter; it costs us money every moment we are debating this question; and surely there is no man on this floor, who could suppose that I, who have been so frequently called the guardian of the treasury, would recommend any call upon it, unless called for by the real justice of the claim for it.

Mr. Voorhies yet objected; he wanted yet to see what the other clerks were about, (who were doing nothing,) that they could not have done this work.

But when the question was put, Mr. Ratliff's resolution was carried.

Mr. Waddill then offered the following resolution:

Resolved, That in commemoration of the annexation of Texas, whereby the peace, safety and glory of the Union are preserved, this Convention will now adjourn, to meet on Tuesday, the 11th inst., at 11 o'clock, a. m.

Mr. Waddill said that in addition to the glorious consumation which we have this day heard, of the final settlement of this measure, so important to the interests of Louisiana. He feels it incumbent upon him to say that there is another reason which induced him to offer this resolution; and that is, that the legislature is now on the point of adjourning; and there are some seven or eight members of this Convention who are also members of that body, who will be unable to attend our deliberations, until that body adjourns, and they are now holding morning and evening sessions, and will continue to do so until Monday, when they will adjourn. We have many very important matters, which are to be immediately acted on by the Convention; and we should have the benefit of their experience, and their votes, so as to have as full an expression of public sentiment on these matters as possible. He hoped, for these two reasons combined, that the motion would prevail; but there is another one, which had also some weight, and should be taken into consideration; which was, that there were many members residing within a short distance from the city, who had matters requiring their attention at home; and who had as yet no opportunity to visit their homes; and he thought no better opportunity offered than the present.

Mr. Porter moved to amend by having a clause added, that when we adjourned to-

day we should meet again at the State house.

Mr. CHINN objects to the resolution, because we shall lose two days in glorifying over a thing which may or may not have happened. We have no evidence of the fact of Texas being annexed; it is nothing more than rumor—we had better wait and see. We have lost a great deal of time already, and he cannot see the necessity of losing two more days.

Mr. CLAIBORNE would be very willing to agree to the motion of the gentleman from Baton Rouge, if he would modify it in such a way as to stop the expenses. The State is now at a very large expense, two deliberative bodies in session at one time. It is true we have important business now before us, and we ought to have the counsel of every member of the Convention; besides it is also true there are many of the members absent on leave, while there are others who have never absented themselves, who ought to have some opportunity of going home. Let the pay be stopped then —let members take this opportunity to visit their homes, and then return and go to work in earnest.

Mr. DUNN moved to lay Mr. Waddill's motion indefinitely on the table; but much as he was in favor of annexation, he thought we had better not adjourn this Convention, at least until we were certain of it; he thinks we should not hallo before we get out of the woods. He pressed his motion, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Benjamin, Bourg, Brazeale, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, F. B. Conrad, Covillion, Culbertson, Derbes, Dunn, Garrett, Hynson, Legendre, Lewis, McCallop, Mayo, Mazureau, Preston, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Scott, Stephens, Miles Taylor, Voorhies, Wederstrandt, and Winder—37 yeas; and

Messrs. Brent, Brazeale, Cenas, Claiborne, Humble, Leonard, McRae, Peets, Porter, Ratliff, Read, W. B. Scott, S. W. Scott, Soulé, Waddill, and Wikoff—16 nays; so the resolution offered by Mr. Waddill was lost.

Mr. SCOTT of Baton Rouge, renewed the motion to adjourn, in the following form:

Resolved, That when the Convention adjourns to-day, it will adjourn to meet on Tuesday next, the 11th inst. at 11 o'clock, a. m. The yeas and nays being called for, (Mr. Claiborne in the chair,) resulted as follows:

Messrs. Brent, Briant, Cenas, Humble, McCallop, McRae, Porter, Prescott of St. Landry, Read, Roman, Scott of Baton Rouge, Scott of Feliciana, and Soulé—13 yeas; and

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Garrett, Hynson, Legendre, Leonard, Lewis, Mayo, Mazureau, Peets, Preston, Prudhomme, Pugh, Ratliff, Roselius, St. Amand, Saunders, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—39 nays; consequently the motion was lost.

The next question in order was the resolution offered on yesterday by Mr. Scott of Baton Rouge, and which was under discussion when the house adjourned, viz:

The seat of government shall, from and after the year 1848, be permanently located out of the city of New Orleans, and not within a distance of ——— miles from the said city.

Mr. SAUNDERS proposed a substitute for the whole resolution, but was reminded by Mr. Claiborne, who was in the chair, that the vote having been already taken on the previous question, it could not be offered in the form of a substitute. No substitute could be offered unless it were to fill the blank. Mr. Saunders thought the chair was in error; as the vote on the previous question was certainly improperly taken—the only question before us, is on the whole section, and he conceives he has the right to offer a substitute for the whole.

Mr. CLAIBORNE reminded Mr. Saunders that he was still out of order—he could not be accountable for any thing that was done, when he was not in the chair; and the rules of the house were peremptory on the subject.

Mr. CHINN thinks he can cure the evil, although he feels satisfied that the chair is right in its decision; as a motion for the previous question had already been sustained by the Convention. In order therefore, properly to bring up the matter be-

fore the house, he should move a reconsideration of the vote given on yesterday on the previous question. The question was then put and the motion was carried.

Mr. Saunders then renewed his motion to adopt the substitute submitted by him.

Mr. Voorhies was of opinion that if any substitute were in order, certainly it was the one offered by him, but not acted upon on yesterday.

The President thought Mr. Saunders' motion was clearly in order, but Mr. Brent moved to lay the whole matter on the table.

Mr. Saunders thinks Mr. Brent's motion is a correct one, and will reach the case, if he will say all except one substitute.

Mr. Voorhies is convinced that the motion he made yesterday is the only one which should properly be before the Convention. The substitute which is embraced in that motion, will test the question clearly and plainly, whether the seat of government is forever to be removed from New Orleans or not. For his own part, he is in favor of leaving it to the legislature, who are not likely to decide so important a question on slight grounds. He is himself opposed to the removal of the seat of government at present, and certainly not out of the city permanently, if the legislature may hereafter deem it advisable, and for the interests of the State to bring it back again. For these reasons, he hopes the sense of the Convention will be taken on the substitute as proposed by him, and which reads as follows:

"At the first session of the legislature under this constitution, a law shall be passed, to fix a suitable location for the seat of government for this State, which shall take effect in the year 1850, and shall not be subject to any change before the year 1870, and every twenty years thereafter, if deemed proper and expedient.

Mr. Brent then moved to lay said substitute on the table indefinitely.

Mr. Benjamin hopes that Mr. Brent's motion will not prevail. It is true that the substitute, as offered by Mr. Voorhies, does not fully meet his (Mr. B's.) views, as it is stated, but nevertheless, he shall support it, because it contains one great principle, for which he (Mr. Benjamin) is contending; and that is, that this Convention should not bind the people down any more than is absolutely necessary, to keep the course of government equal and even, and moreover, just towards all. For that reason, he thinks it is not right for this Convention to designate any particular spot as the seat of government, so permanently, that the people themselves cannot (if they would) change it when it is once established, and that will be the inevitable result if we incorporate it in this constitution, when it is once established.

If the motion to lay this substitute on the table prevail, we shall be virtually saying that a very insignificant minority of the State shall have the power of ruling at their will and pleasure, an immense majority. It will not (said Mr. Benjamin) I trust, be improper for me to express my astonishment that those gentlemen who opposed us so strenuously on the most important and vital questions that we have already discussed; and who then were the loudest in their condemnation of any restrictive measure, should so suddenly be found willing to admit his assertion, made on the 14th of February last, that we were here, in Convention, to impose such restrictions as were deemed necessary, to be inserted in the constitution for the happiness and welfare of all; and it will not further, I hope, be considered out of place, when I say that the way and manner in which they have shifted their ground, reflects no credit on them, either in their actions, or in the manner in which they have seen fit to abandon principles, which they professed to cherish, and that, on the very ground which they scouted at us conservatives for, viz. *the expediency of the case.* Beautiful consistency! ! they say it is expedient to fetter down the people in the choice of the spot where the seat of government shall be held. We say it is both inexpedient and unjust to fetter the people at all, in their wishes on a subject purely of locality; the people at large are the best judges of these matters, and they will doubtless elect their representatives hereafter with such views as their own, on that and every other local subject, as they have heretofore done. We consider such a measure unjust in every sense, and we further say that if you insert it in our constitution, you stifle the popular voice. And shall we in 1845, when men are supposed to be

endowed with more powers of thinking and reflection, than the gentleman opposed to us in this measure thought they were in 1812, shall we force upon them a restriction which will be monstrous in theory, and more than monstrous in practice? The question is, what right have we to do it? We might with propriety say, that it shall be fixed at any named point for a certain number of years; then, if it is found to be inconvenient, the legislature, with all the facts before them, (coming as they do fresh from the people, and knowing their wants,) could readily obey the wants and wishes of their constituents; but to say that we are now to fetter and bind down the people, and mark out a chalk line for them to walk on hereafter; and that such a spot, and only such a spot shall be the ground on which the legislative affairs of the State shall be conducted, is saying a little more than I could have expected from those who are, or profess to be, so fond of "the largest liberty;" of those who cry out eternally, the only pure principle of democracy is, that "majorities must govern." The more he (Mr. B.) reflects on the singular position those gentlemen have placed themselves in, the more he regrets it for their sakes; because if they be sincere in their professions, they cannot argue themselves out of their false position.

He therefore opposes Mr. Brent's motion to lay on the table.

Mr. Brent remarked, in reply to the delegate from New Orleans, Mr. Benjamin, that it is not the popular will they desire to restrict; but the legislative will; for, sir, said he, nothing is clearer, than if the majority of the people desired to change their seat of government, it would not be so very difficult to change the constitution in that or any other respect. But it is the agents of the people, the members of the legislature themselves, whom we are desirous to check; and he, (Mr. Brent) wants the seat of government of the State of Louisiana, unalterably out of New Orleans—and most especially beyond the power of the legislature to bring it back again. If former legislatures have failed in their promises to the people, and been governed by different motives to what they have professed—if this Convention, which it was the wish of the people, should meet at Jackson, have adjourned their sittings to New Orleans to make a constitution, he (Mr. Brent) thinks it high time for us to insert the clause asked for, in the constitution.

Mr. Eustis then rose to address the Convention.

Mr. President, I had not intended to offer any remarks on this subject, while the compromise question was before the Convention; and which I regarded more as a question of action than debate; but since it has been deemed proper to press this question to a vote at this moment, and as I conceive it has been improperly connected with the question of apportionment, I desire frankly to submit my views on the proposition, as briefly as possible, and to address myself particularly to those who style themselves the friends of popular rights, and who profess to be, like myself, partisans of the doctrine of anti-restriction.

Mr. Eustis remarked that it would be indeed a singular thing on our part to say, in a written constitution, that we cannot confide in the judgment of the people, nor in the wisdom of the legislature. Are the people so reckless, so incompetent, or so vicious, that they cannot be trusted to name the place where they shall make the laws which are to govern them? This is restriction with a vengeance, when you say that a majority shall not be deemed capable of selecting any village or spot they please for the seat of government. Is it proper to introduce such a clause in our constitution? Is it in the mandate that sent us here? It is in no way a proper subject even for discussion, much less to make it a part of our constitution. Why should we go into details to fix the place where the capitol shall irrevocably be, discarding from our mind what future exigencies may call for? It is neither expedient nor politic to insert it in the constitution. For his (Mr. E.'s) part, he cares not whether it be Baton Rouge, or Donaldsonville, or Cheneyville, or Jackson, that may be selected, but it is a matter of moment to interpose when we see the Convention about to violate an elementary principle by thus imposing another restriction on the will of the people, which is no where to be found in the instructions of those very people who sent us here. But it is said that the legislature will not remove it from New Orleans, and if they do, it will be brought back almost immediately. Why

should we consider the legislatures and the people for the last thirty years, as stultified. Is it to be supposed they did not know what public convenience required? and if we are to presume, as we must, that they did, how can it be said or supposed that the people hereafter will not be as capable of judging what is for the benefit and convenience of the people at large, as those who have preceded us? He (Mr. Eustis) was somewhat suprised to hear of the removal of this Convention from Jackson to New Orleans referred to, and he regarded from the manner in which it was introduced, it was meant as a kind of reflection on his colleague, (Mr. Benjamin) and himself; but as he knows that both voted on principle he does not regret the vote they gave on that occasion; it was a measure called for by sound policy, and he believed as well for the interest of the country as for the city. The interests of the city particularly required it, as subsequent events have most clearly proved to us in the deliberations of this body.

Subsequent facts have clearly shown that we should never have made a constitution at Jackson. The great efforts that were then made to cast censure on the majority, for removing the sittings of the Convention, and which were resorted to for political purposes, have not produced the effect intended; no body now disapproves of the charge; and the small rumor of dissatisfaction, which we heard at first, has passed off; until finally all sensible people are satisfied that it was a wise measure.

What evidence have we to predicate the necessity of making the removal of the seat of government from New Orleans a question of constitutional provision? The rule he, Mr. Eustis, craves attention to, is the rule of experience, which is the test of truth. For thirty-two years the country members of the legislature possessed not only the physical power, but also the desire to remove the seat of government away from the city; but yet they never attempted it but on one occasion, and that resulted in serious loss to the State. He alludes to the session of 1830, which was held at Donaldsonville. Why did they adjourn then, to meet in this city? and why has it been here ever since? You have but to compare the regularity in the proceedings of the sessions held in the city, with the irregularity of that held at Donaldsonville, and you have the reply; besides the work was so much better done here than there, that it is easy to account for its removal back to the city. It was, moreover, found impossible to keep the members there; they were absent so frequently and so constantly, that it was a difficult matter to get a quorum present. Place the capitol within sixty miles of New Orleans, and you will find it impossible to keep the members away from the city; some will come to attend to their business; some for the purpose of enjoying the winter amusements of the city, (for men are alike every where;) and the consequence will be that your public buildings will be deserted. It is a matter of no moment to New Orleans whether the legislature be held here or not; and for his part he would disregard her interests, if they clashed or interfered with the interests of the whole State. But as we have had one lesson of experience, we ought to pause and reflect before we do that for which we were not sent here, and which is neither politic nor expedient. All very true, say you, but, oh! that city influence! Far from its being a pernicious one; it is a benefit to you. Have you not daily on your desks the proceedings of the preceding day, spread before you by a scrutinizing press, who will scan your every act? And why should you avoid it? A vigorous and independent press is the very best possible check on improvident legislation; and you ought to feel proud and gratified to have it in your power to satisfy your constituents, and to show them the propriety of your conduct, and the motives that prompt you in your actions. On the other hand, transport your State archives to some place on the banks of Red River, or to the prairies of Calcasieu, or to Ouachita, or to the borders of some of our immense forests, and then what shall we see? We shall find that, without that salutary check, an independent press, where the proceedings of the legislature can be promptly disseminated in every portion of the State, (which in Louisiana, can alone be found advantageously in New Orleans,) that instead of knowing what those proceeding are, before it be too late to remedy the evil, laws have been made to satisfy the cupidity or the avarice, or the vain-glorious efforts of some men, who are constantly agitating

measures, which in effect, destroy the tranquility of the public mind, without producing ought else, than injustice to the majority of the people.

It is said that the influence of cities is great; admitted, and it ought to be in every proper point of view; but that influence is not a fatal one, unless used for particular purposes of self interest or self aggrandizement; but when we turn to the largest States in the Union, what do we find? You hear of no acts of public oppression in the cities of Boston or Richmond, or of acts that tinge the cheek of every American with shame. No: such acts are generally perpetrated in obscure places, where the press cannot be heard in time to avert the evil. For instance, was it not in Harrisburgh that the charter of the U. S. Bank was granted? And did not men go from all parts of the country, who were paid, and loaded with money, and every other inducement, that could be made to operate, for the purpose of securing the passage of that bill? And did not this occur before the news of what was going on could be spread abroad? it did. Would that iniquitus measure have been foisted on the people, had the seat of government been in Philadelphia, where their press is active, and their perceptions not only intelligent, but quick? most assuredly not. And is it for us, a State burdened with an immense debt, large enough to pave the state house with gold, to remove our legislature beyond the reach of the watchful and argus eyes of the press?

Look at the State of New York. Is not the legislature of that State, which convenes at Albany, most perfectly under the control of the lobby members? Has it not become a common thing in New York, whenever any measure is talked of as being before the legislature, to hear it said, oh! it all depends upon the lobby; it can't pass without they are in favor of it? Yes, sir, that lobby is more powerful than all the members put together, and this unscrupulous body of men hold them in such thraldom that legislation is brought to a stand, unless they come to an understanding with the venal wretches; and this same thing must and will happen in Louisiana if we remove our seat of government beyond the reach of an active and independent press. Albany, though now a large city, is nothing in comparison to the city of New York, and the same improper and unjust laws made at Albany could not have been passed in the city of New York, with their ever watchful press reporting their every act. Thus disgraceful and improper legislation is consumated in small towns and villages before the evil can be remedied, and all for the want of proper information.

The honorable delegate from Ouachita (Mr. Downs) tells you that in consequence of the immense progress New Orleans is making in her growth and commerce, the country villages are dismantled and all the business is done here; and yet it is in some one of those deserted villages that he is desirous of fixing permanently the seat of government. How can those gentlemen who are so opposed to restriction, carry this restrictive principle so far without reflecting on the injustice they are doing their constituents in depriving them of the privilege of fixing the seat of government in any part of the State which they may deem most advantageous, and where the general good will be the most especially promoted?

He (Mr. Eustis) leaves them to answer the question, and he hopes the motion to lay Mr. Voorhies substitute on the table, will not prevail.

The question was then put to lay Mr. Voorhies substitute indefinitely on the table and resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Burton, Cade, Chambliss, Chinn, C. M. Conrad, Derbes, Dunn, Garrett, Humble, Hynson, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, W. M. Prescott, Preston, Pugh, Ratliff, Read, Saunders, W. B. Scott, S. W. Scott, Sellers, Stephens, Miles Taylor, Trist, Waddill, Wederstrandt and Wikoff—36 yeas.

Messrs. Benjamin, Briant, Carriere, Cenas, Claiborne, F. B. Conrad, Culbertson, Eustis, Grymes, Legendre, Leonard, Mazureau, Roman, Roselius, St. Amand, Soulé, Voorhies, Wadsworth and Winchester —19 nays; consequently the motion was carried.

Mr. SAUNDERS then submitted the following resolution, viz:

The general assembly which shall sit after the first election of representatives under the new constitution, shall within the firt month after the commencement of the session designate and fix the seat of government at some place not less than sixty miles from the city of New Orleans, by the

nearest travelling route, and if on the Mississippi river, by the meanders of the same; and when so fixed, it shall not be removed except by the consent of four-fifths of the members of both houses of the general assembly.

The sessions of the general assembly shall be held in New Orleans until the end of the year 1848.

Mr. Voorhies moved to amend said substitute by striking out the words "at some place not less than sixty miles from the city of New Orleans by the nearest travelling route, and if on the Mississippi river, by the meanders of the same."

Mr. Benjamin agrees with Mr. Voorhies, because he desires to leave the people free and untrammelled on this point. He is totally opposed to restricting them in their choice as to the spot where the seat of government shall be held, preferring to leave it open for them to remove from, or retain it in the place they may first designate; according to the exigencies of the moment. It is a power not delegated to us. He never heard of its being made a question before, and we therefore ought to leave it to their own decision; that, he (Mr. B.) understands to be the purport of the amendment and he therefore sustains it. Let the legislature regulate it according to their constituents' wishes, and not us, because we do not know; we have no means of knowing what are their wishes. The object of the amendment seems to be, that it should be submitted again to the people; and surely those who object so much to restricting the people in their desires, cannot refuse to act up to their professed principles.

Mr. Read took this occasion to say that it was a matter of general desire in his parish that the seat of government should be removed; that it was made a question before the people at the election in July.

Mr. Saunders desires to repudiate the idea that he would press any measure which the people generally did not approve, but he knows that his constituents do wish the seat of government irrevocably removed from the city of New Orleans; and it is his deliberate conviction that four-fifths of the people out of the city want the same thing.

Mr. Brent said that his constituents were almost unanimous in calling for the removal; indeed he did not believe there was one man in ten who was not in favor of it.

Mr. Dunn concurred fully with his colleague, (Mr. Saunders) as to the general wish to have the seat of government removed from New Orleans, but nevertheless he should vote against that portion of the substitute offered by Mr. Saunders, which places the limit of distance from the city at sixty miles. One of the reasons, he thinks, to be taken in consideration (when you fix upon a scite for the seat of government) should be, to have it as near the centre of the State as possible. New Orleans is more than one hundred and fifty miles from the centre of the State; yesterday he proposed that the distance should be fixed at not less than one hundred and twenty miles from the city. Some spot might be selected as near the centre of the State as possible; in that way all would be satisfied, there would then be no complaints; no charge of injustice to any; but he should oppose the limit of sixty miles, because he should regard New Orleans and Donaldsonville as about the same thing; indeed he would prefer its being held here, if in either. He thinks the first thing we have to do is, to remove it from the city, and then put it as near the centre of the State as possible.

Mr. Conrad thinks that the reasons advanced by the gentlemen who sustain the removal of the seat of government from New Orleans, in which their several constituents are so unanimous in desiring to have done, are the strongest possible reasons why Mr. Voorhies' amendment should prevail; because if their constituents are so unanimous on the subject there will certainly be no great diversity of opinion among their representatives, and they can settle the matter in the legislature during the first week of the session; but he thinks the mode recommended in the substitute is not the correct one, and that we are proceeding in an anti-republican manner, and that it is an assumption of power on our part which has not been delegated to us. He should feel that *he* would be doing wrong if he were to vote to keep it in New Orleans, and therefore does not believe it is right to force it either to, or out of any particular spot, it being a question purely belonging to the people at large, and one in which they have a right to suit their own convenience. Besides that, there would seem to be a peculiar impropriety in the measure, so far as New Orleans herself is

concerned. In passing this substitute, you virtually fix a stigma, a brand on the city. You say that all the State may enter into competition for the prize *except New Orleans*, and that while all the representatives from the country may enter into the canvass, that the representatives from New Orleans must stand still and look on as silent, but humiliating spectators. The injustice is still greater to New Orleans when it is considered that the city is not represented on this floor in proportion to her population, as other parts of the country are. One of the main objects of calling this Convention was to equalize the representation, which years ago was found to be unfair under the existing apportionment, and yet we are about to decide a question which has never to his (Mr. C.'s) knowledge been regularly before the people, while New Orleans is not equally nor fairly represented in comparison with the country parishes in this Convention.

The only fair course to pursue is to leave it to the legislature, and then we shall have a fair chance to be heard in it. It is true, you have the power in your hands, but do not be unjust; if with the majority you have, you take away a right from us to be heard on a question as vital to our own interests, as they can possibly be to the country. You will commit an act of the most outrageous kind, and for that reason alone, if for no other, he shall vote for the amendment offered by Mr. Voorhies.

Mr. Saunders is of opinion that this measure has been fully before the Convention since our first meeting, and discussed incidentally, more or less, every day, and therefore he moves the previous question, which, however, he withdrew for the moment.

Mr. Voorhies wished it distinctly understood that the measure now before us had never been discussed, or talked of in his section of country, and therefore he does not feel himself instructed on the subject.

Mr. Porter would vote for the amendment proposed by Mr. Voorhies, because he thought it was a matter properly pertaining to the legislature, who would come fresh from the people, and would know what their wishes were. He has heard some one say he was not willing to trust the legislature. All he can say in reply to such an assertion is, that he has every confidence that the members who would be elected from the portion of the country in which he resides, would faithfully perform their duty, and carry out the wishes of their constituents; and he doubts not other members from the different parts of the State would do the same thing. There was another reason why he should vote for the amendment; which was, because he thought that when the legislature did settle the location, they would make one that would be permanent, and he much preferred that to leaving it in the unsettled state things are now in. He referred to the situation of the present State house, which doubtless would have been better cared for, if there was any certainty of its being permanently fixed here.

The question was then put on Mr. Voorhies' amendment, and resulted as follows:

Messrs. Benjamin, Briant, Cenas, Claiborne, C. M. Conrad, F. B. Conrad, Culbertson, Derbes, Dunn, Eustis, Grymes, Legendre, Mazureau, Porche, Porter, W. M. Prescott, Preston, Roman, Roselius, Read, St. Amand, Soulé, Stephens, Trist, Voorhies, Wadsworth and Winchester—27 yeas; and

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Garrett, Humble, Hynson, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, W. B. Prescott, Prudhomme, Pugh, Ratliff, Saunders, W. B. Scott, T. W. Scott, T. B. Scott, Sellers, Miles Taylor, Waddill, Wederstrandt, Wikoff, and Winder—34 nays; consequently the amendment was not carried.

Mr. Beatty then moved the adoption of the resolution, as offered by Mr. Saunders; but

Mr. Claiborne moved to strike out four-fifths, and insert two-thirds. He remarked that if this resolution was persisted in, it would operate unjustly and injuriously, for it would be virtually placing it out of the power of the legislature, after they had once established at any given point, to remove it in case they should make a bad selection at first; for it is well known that the interests of those interested in keeping it at the place first designated, would certainly be able to gather together more than one-fifth of the votes of the legislature; for who does not know that the ties of neighborhood are powerful? who does not know

that there is always a charm about our own village clock? That feeling will alone induce them to exert every sectional interest in order to keep it in that spot where it was first placed, however inconvenient it may be to the people otherwise. Besides, that the principle of the whole substitute is an odious and restrictive one, and that too supported as it is by those who have declaimed the loudest on this floor against all restrictions. Some of the gentlemen who support this measure, and who are so fond of looking to the constitutions of other States as models for us, had better have recourse to their books, to see if they can find one single State in the Union with such an odious and uncalled for restriction as the one now before us. The evil could scarcely ever be remedied by any legislation, even if it were placed in an unhealthy spot, because four-fifths of both houses could not be found united even then, when they had to contend against the sectional interest of the surrounding parishes. He is opposed to the whole section, because he thinks we have no business to touch the question, and that it properly belongs to the Convention to settle it. But he makes the motion to insert two-thirds in lieu of four-fifths, for the purpose of making it less obnoxious.

Mr. Saunders then moved for the previous question, and the President then put the question, "shall the main question be now put?" and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Dunn, Garrett, Hynson, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott of St. Landry, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Taylor of Assumption, Waddill, Wederstrandt, Wikoff and Winder—31 yeas; and

Messrs. Benjamin, Briant, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Eustis, Grymes, Humble, Legendre, Lewis, Mazureau, Porche, Porter, Preston, Prudhomme, Rathff, Roman, Roselius, St. Amand, Soulé, Stephens, Trist, Voorhies, Wadsworth and Winchester—30 nays.

Mr. Claibore then called on the president to vote; who voted in the negative, which made the vote equal, and therefore the motion was lost.

The President then said that he voted in the negative because he thought the restriction was too great upon the legislature; but that if that restriction were modified, it was most likely he should vote for it.

The resolution of Mr. Saunders became again the question before the house, and was on the motion to strike out "four-fifths" and insert "two-thirds."

Mr. Benjamin was of opinion that the gentlemen in their over-hot zeal to kill N. Orleans, are over-shooting their own mark: he thinks two-thirds is entirely too much, as it will be next to impossible to get that number of members in the legislature together, much less a majority of two-thirds of the whole; he thought three-fifths is all that in reason should be asked. For, said he, suppose they were to pick out some inconvenient or sickly spot, that would become obnoxious to the members, they would have no power to remove it; and there they would have to stay in spite of themselves, for sectional interest would be sure to defeat them. Alter it, if you will, so that it shall require four-fifths to remove it back to New Orleans, but don't pass any section which will be so onerous on the balance of the State, as the one now before us.

Mr. Claiborne remarked that he was disposed to meet the gentlemen who were pressing this matter with so much zeal, as far as they could reasonably expect, and for that purpose he had proposed two-thirds instead of four-fifths, which he regarded as tantamount to saying that the seat of government never should be changed when once established. They are constantly alluding to the baneful influence of New Orleans, of her grasping disposition to obtain power, and of her efforts to destroy the country. Let them beware, in the course they are now pursuing, they don't destroy the constitution itself. We have conceded to them the basis of representation; we have conceded to them seven-eighths of the senate; and we have, one after another, conceded so many points, that we can go no farther. In order, however, to test the question, he will accept the amendment to his amendment, which proposes three-fifths in lieu of two-thirds.

Mr. Beatty said he regretted that the previous question did not prevail, for much

as he was desirous to see the seat of government removed from New Orleans, he should prefer it to remain where it was, in preference to giving the power to the legislature to change it at any time they saw fit.

Mr. CLAIBORNE, on reflection, withdrew his acceptance of the amendment made by his colleague, and pressed the original amendment made by him, which was to strike out four-fifths and insert two-thirds.

Mr. WINDER then moved a division of the question, so as to take the vote first on striking out four-fifths, and then to take the vote on the balance of the section, which was agreed to, and thereupon, Mr. Claiborne's motion to strike out was put, and the yeas and nays being called for, resulted as follows:

Messrs. Benjamin, Briant, Carriere, Cénas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Eustis, Grymes, Kenner, Ledoux, Lewis, Marigny, Mayo. Mazureau, Porter, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Trist, Voorhies, Wadsworth, and Winchester voted in favor of the motion—29 yeas; and

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Burton, Cade, Chambliss, Chinn, Dunn, Garrett, Humble, Hynson, Labauve, McCallop, McRae, O'Bryan, Peets, Prescott of St. Landry, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Waddill, Wederstrandt, Wikoff and Winder voted against the motion—33 nays; consequently the same was lost.

Mr. DUNN then moved to amend said substitute by inserting one hundred and twenty miles, instead of sixty miles.

Mr. LEWIS moved to strike out sixty miles, and insert one hundred miles.

Mr. BEATTY moved for the previous question.

The PRESIDENT put the question, "shall the main question now be put," and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Burton, Chambliss, Chinn, Garrett, Humble, Hynson, Labauve, McCallop, McRae, Mayo, Peets, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—29 yeas; and

Messrs. Benjamin, Briant, Cade, Carriere, Cénas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Guion, Grymes, Kenner, Legendre, Lewis, Marigny, Mazureau, O'Bryan, Porter, Prescott of St Landry, Preston, Prudhomme, Raliff, Roman, Roselius, St. Amand, Soulé, Trist, Voorhies, Wadsworth, and Winchester voted in the negative—35 nays; consequently the motion was lost.

Mr. COVILLION moved that the word sixty be stricken out, and one hundred and twenty inserted in lieu.

Mr. VOORHIES moved to insert two hundred.

Two o'clock having arrived, the special order of the day was called up, which was the substitute offered by Mr. Benjamin, on the question of apportionment. [This project having been before published is omitted.]

Mr. SAUNDERS moved to suspend the rules of the Convention, so as to enable us to finish the business now before them; which motion prevailed.

Mr. CLAIBORNE thought his amendment to insert two-thirds instead of three-fifths, was next in order.

The PRESIDENT, however, explained that the Convention had refused to make a blank, and there was therefore nothing to fill.

Mr. W. B. SCOTT moved to lay all the amendments on the table, except the amendment of Mr. Saunders.

Mr. WADSWORTH reminded him that it was precisely the same thing as calling for the previous question, which had just been negatived.

Mr. SCOTT then withdrew his motion.

Mr. LABAUVE then moved for a division of the question on the motion of Mr. Dunn, that was, on the motion to strike out the word sixty.

The PRESIDENT then put the question on striking out the word "sixty;" which was decided by yeas and nays, as follows:

Messrs. Benjamin, Briant, Carriere, Cénas. Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Grymes, Legendre, Leonard, Lewis, Mazu-

reau, Porter, Prescott of St. Landry, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Stephens, Voorhies, Wadsworth and Winchester voted in the affirmative—31 yeas; and

Messrs. Auberr, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Garrett, Humble, Hynson, Kenner, Labauve, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Taylor of Assumption, Trist, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—35 nays; consequently said motion was lost.

Mr. Conrad of New Orleans moved to amend, by inserting after the words "four-fifths" the words "the members present of each house of the general assembly; which motion was lost.

Mr. Saunders then moved for the adoption of his substitute, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Dunn, Garrett, Humble, Hynson, Kenner, Labauve, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott of St. Landry, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Trist, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—39 yeas.

Messrs. Benjamin, Briant, Carriere, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Eustis, Garcia, Grymes, Legendre, Leonard, Marigny, Mazureau, Porche, Porter, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Voorhies, Wadsworth and Winchester voted in the negative—28 nays; consequently the motion was carried.

Mr. Benjamin then moved that the Convention adjourn until Tuesday next at 11 o'clock, a. m., and the yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Cénas, Claiborne, Conrad of Jefferson, Culbertson, Downs, Dunn, Eustis, Garcia, Grymes, Humble, Kenner, Labauve, Lewis, Mazureau, Porche, Porter, Prescott of St. Landry, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Soulé, Stephens, Taylor of Assumption, Trist, Wadsworth and Winchester, voted in favor of adjournment—yeas 35; and

Messrs. Aubert, Brazeale, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Conrad of New Orleans, Covillion, Derbes, Garrett, Hynson, Legendre, Leonard, McCallop, Marigny, Mayo, O'Bryan, Peets, Preston, Prudhomme, Ratliff, Scott of Madison, Sellers, Voorhies, Waddill, Wederstrandt, and Winder, voted against the adjournment—nays 29; the same was carried.

And thereupon the Convention adjourned until Tuesday, the 11th instant, at 11 o'clock, a. m.

Tuesday, March 11, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer from the Rev. Mr. Warren.

Mr. Hynson asked and obtained leave of absence for Mr. Brent.

Mr. Lewis asked and obtained leave of absence for Mr. Wikoff.

Mr. Cade asked and obtained leave of absence for Mr. O'Bryan.

Mr. Trist was dispensed from attendance on account of sickness.

Mr. Wadsworth presented a resolution that a committee of three be appointed to make the necessary arrangements for the reception of the Convention in the hall of the house of representatives.

Mr. Marigny moved to amend the resolution by requesting the committee first to inquire whether the hall of the house of representatives was calculated to accommodate the members of the Conveution.

Mr. Marigny was of opinion that there was not room sufficient in the hall of the house of representatives to accommodate all the members of the Convention.

Messrs. Wadsworth and Boudousquie, expressed their entire conviction that there was ample room in the house of representatives to accommodate seventy-seven persons.

Mr. Voorhies was opposed to the appointment of a committee. He deems it unnecessary. All that the Convention had to do, was to adjourn from one hall to the other. He moved to lay the resolutions on the table.

After some remarks from Messrs. Voorhies and Pugh,

On motion of Mr. Downs the resolution and amendment was laid indefinitely on the table.

Action was then had for the delivery of the room and the disposal of the furniture not necessary,and on motion of Mr. Downs, it was resolved that when the Convention adjourn, it adjourn to meet in the hall of the house of representatives.

A motion was then made for the adjournment, in order to afford time to the clerks to remove the papers, and to make arrangements for the reception of the Convention to-morrow.

Mr. Downs objected. The yeas and nays were called for—15 yeas—36 nays.

The order of the day was taken up, being a motion to lay Mr. Benjamin's project of apportionment on the table.

Mr. Benjamin moved that the debates on the subject of representation should cease at 2 o'clock on Thursday, and that the vote be then taken.

This motion prevailed.

The Convention adjourned.

Tuesday, March 12, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. Clark.

Mr. Downs moved to add the Bulletin to the number of the city papers to be subscribed for, for the use of the Convention, and that the secretary be requested to have the same furnished to each member. He was anxious to get regularly, at least a synopsis of the debates; and it appeared that from some cause or other, the debates were not regularly published.

Mr. Chinn was anxious to know what would be the expense of it. He said that Mr. Kelly had been removed, most likely without cause. Then we had only one reporter, now we have two, and the reports ought to be up; the fault must lay some where.

Mr. Kenner was opposed to taking the Bulletin or any other paper, unless the subscription to the Jeffersonian Republican and Courier were discontinued; for, said he, we have discharged Mr. Kelly because he was supposed not to have performed his duty; and he can see no reason why both the other papers should not be discharged from the service of this Convention also.

Mr. Benjamin is opposed to striking off the subscription to the Courier, because the editor of that paper has fulfilled the obligations he has come under to this Convention, faithfully. The French reporter also seems to have performed his duty, and therefore we ought not to deprive the French population of having the debates regularly published for them, while both printer and reporter perform their duty regularly.

Mr. Kenner consented to leave the Courier in the employ of the Convention for the reasons stated, but

Mr. Downs remarked that it was not either his wish or intention in making the motion he had, to disturb the present state of things, either as regards the printers or reporters. He does not wish to disturb the system which we are now practising upon. It is true that our debates are not up in the paper we have selected; but that may arise from many causes; but the main difficulty, no doubt, arises from the reporter being so much overtasked before the Convention elected a second reporter to aid him in his work, and every body knows how hard it is to make up for lee-way. Under these circumstances, he conceived it better every way to take the paper which he recommended as containing good condensed reports of the proceedings. The expense will be so small, that it is hardly worth the while of this Convention to make it a matter of debate, when two or three dollars a day will pay the whole expenses. He hopes, therefore, that no further objection will be raised to his motion.

Mr. Beatty thinks that there is another matter connected with this subject, that requires attention; and that is, who is in fault in this matter? is it the printer, or is it the reporters? and if the latter, which one of them is delinquent in the performance of his duty? These are questions that ought to be investigated, and the person in whom the fault lies be discharged at once. The French reporter has published his proceedings regularly. What then can be the cause of the delay on the part of the English reporters? This should be investigated at once. He (Mr. Beatty) is opposed for these reasons, to the resolution offered by Mr. Downs, and hopes it will not prevail.

Mr. Boudousquie wants to know the amount it will cost; and Mr. Beatty then moved to lay the resolution of Mr. Downs on the table.

Mr. Downs replied to Mr. Beatty that it was hardly worth while to oppose his resolution for the small amount which it would cost the Convention.

Mr. Beatty then moved to lay the resolution of Mr. Downs indefinitely on the table, which motion prevailed.

Mr Beatty then offered a resolution, in the following words, viz:

Resolved, That a committee of three members be appointed to inquire whether it be the fault of the reporters or of the publishers that the debates in English have not been published to date, with instructions to report a resolution removing the delinquents from office.

Which resolution was adopted.

The President appointed Messrs. Beatty, Ratliff and Downs, members of said committee.

Mr. Ratliff moved to amend the above before the question was put; which amendment was accepted, that the facts of the case should be submitted; for although he would go as far as any one to turn out an incompetent, or a careless officer, yet before he can do that, he must have the facts before him.

Mr. Lewis asked leave of absence for Mr. Brumfield for a few days, and the same was granted.

ORDER OF THE DAY.

The project submitted by Mr. Benjamin on the apportionment, the same as published in the official reports of the inst.

The President then informed the Convention that this subject should properly lay over until Thursday.

Mr. O'Bryan moved to lay Mr. Benjamin's project on the table indefinitely.

Mr. Ratliff moved to amend by substituting the words, "subject to call" for "indefinitely," which being accepted, it was agreed to.

Mr. Ratliff then moved to take up the 7th article of the constitution, which provides for the revising of the same. He thinks a settlement of that question will materially aid in bringing to an harmonious adjustment the apportionment question.

Mr. Downs thought we had better proceed with the section in relation to the representation in the senate; but

Mr. Ratliff's motion prevailed, and the Convention took up the 7th article of the constitution, as follows:

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 State shall cause the same to be published three months before the next general election, in at least one newspaper in every parish of the State in which newspapers shall be published; and if in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of State shall cause the same to be published in manner aforesaid, at least three months prior to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if the people shall approve and ratify such amendment or amendments by a majority of all the qualified voters of this State, voting thereon, such amendment or amendments shall become a part of the constitution: *Provided*, that if more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.

Mr. Humble moved that the article be adopted as reported.

Mr. Mayo then moved to insert after the word "election" in the 10th line, the words "for representatives to the next general election."

Mr. Humble opposed it, thinking it right in its present shape.

Mr. Ratliff saw no good to be derived from amending it as Mr. Mayo proposed. He thinks it sufficiently explicit as it says, and it is understood most clearly to mean the biennial elections for representatives to the general assembly.

Mr. Mayo feels convinced that in making a constitution, it is our duty to make it as definite as possible; in fact we cannot make it too definite—it removes all doubt. He should therefore press his amendment; which on motion, was put and lost.

Mr. Boudousquie moved an amendment

to have the advertisements printed in the French as well as in the English language. It was as follows: by inserting after the word "published," the words "in French and English," which motion was adopted.

Mr. Claiborne was not disposed to let this article pass, without examining more closely into its merits, and he thinks it is susceptible of amendment. He regards a constitution as no light matter; as a thing not to be touched, unless for weighty reasons; and on examining the article before us, we find a bare majority of the legislature will have the power of proposing amendments to it, and also that a bare majority of the second legislature may agree to any such amendments, and therefore take the vote of the people upon it.

Now he (Mr. Claiborne) fears that by so easy a mode being open to the legislature, we shall have incessant changes proposed, and we shall be constantly kept in a state of excitement; a thing always to be avoided when possible, or unless some great political benefit is to enure to the people. But he fears it will be made a kind of plaything, for we all know how these things have been managed before the people. He is of opinion, that the evil may be remedied by increasing the required majority in the legislature at the first proposal of amendment, for if a larger amount of the members than a bare majority be required, the people will examine the amendment with a greater confidence, and will naturally feel that it is not offered on slight grounds; the second time after the people have divided on it, it will not be so much a matter of moment. Besides, if we retain the bare majority we shall be more subject to the caprice and whims of particular parts of our country, who may by a concentration of strength, be able to carry such a measure through, and thus we shall be in a constant state of agitation. Now, as he thinks we ought not for slight causes to touch that instrument which it is now costing the State of Louisiana a large amount of money and the valuable time of her citizens to perfect, he is desirous to throw such guards around it as will prevent our future legislatures from lightly tearing to pieces, and leaving it as a piece of patch work. He therefore offers an amendment to this effect, to strike out the words "a majority" and insert "two-thirds."

Mr. Porter thinks the amendment is uncalled for. He thinks it will go further, and say that we shall not amend it at all, for two-thirds of both branches will be next to an impossibility to get. For if it be wrong in the first instance, if the first legislature should abuse its power, the whole matter would be before the people at their next election, and they would take it in hand and send a new set of representatives to the second legislature, who could remedy the evil. Besides, it has to go to them finally, and there would at least be six years for them to reflect gravely on the necessity of the change called for before they will be called upon to determine it definitely. He then thinks there is nothing to be dreaded from the article as it stands, and trusts it will not be altered.

Mr. Claiborne in reply to the delegate from Caddo, (Mr. Porter) would remark that it is not on the second action of the legislature he would put any restriction, but upon the first; take away the chances of offering any amendment to the constitution, unless it were called by the sternest necessity, and we shall not be incessantly in agitation from the uncalled for and unnecessary amendments that will be proposed, by either demagogues or aspiring politicians. He is desirous that the door should not be left open to gratify either the vanity or ambition, or caprice of such men. If the people of this State approve of the constitution we are framing, he (Mr. C.) hopes to live in peace for the balance of his days; but if this article passes as it stands, we shall be in constant commotion.

Mr. Porter in reply, stated that he had perfectly understood the question; what he endeavored to say was, that the succeeding legislature could readily undo the acts of the first, if they proposed any amendment to the constitution not agreeable to the people.

Mr. Ratliff objects to the amendment proposed by the delegate from New Orleans, (Mr. Claiborne) because he thinks it is quite unnecessary; and that instead of good, evil may result from it. If gentlemen will carefully examine the phraseology of the report, (for it is his [Mr. R.'s] own report, every word of it,) it will be discovered that there are sufficient safeguards thrown around the people's power to check hasty or improvident amendments to the constitution. If he (Mr. Ratliff) could desire to amend

the report at all, he would be in favor of taking off rather than adding restrictions on the popular will; but as it is, it will take six years before any amendment can be perfected. The first legislature have to propose the amendment, then when it has been published three months prior to the election of the succeeding legislature, in French and English, throughout the State, (he thanked the delegate from St. John the Baptiste for reminding him of the omission he had made in leaving out the word "French" in the report,) the second legislature have to act upon it, and if they approve of it, then at the next general election, two years afterwards, the people finally decide upon accepting or rejecting it. Thus you see it takes three biennial elections before it can be adopted, and he (Mr. R.) thinks that is restriction enough. He (Mr. R.) knows the difficulty of getting the people aroused to the necessity of altering or amending a constitution. He it was who ten years ago, first set the ball in motion, which has resulted in the deliberations of this Convention. He worked for four years, diligently, aided by the delegate from Ouachita, (Mr. Downs) in the legislature; well then, it took two years before the amendments principally needed in the old constitution, could be properly understood by the people—so that six years is the lowest possible time that an amendment could be before the people for their action, The principle on which this report is based is the same as in the constitution of Pennsylvania, a State which has been remarked for her stability and for the regularity of her laws, and she has never made but one amendment in her constitution since it was adopted. He suggested it to the committee as, in his opinion, the best that could be found.

Mr. R. then read that portion of the constitution of Pennsylvania relating to the subject under debate; he remarked there was some slight alteration in the phraseology, but nothing material; and when it is reflected that it was re-adopted in 1838, the difficulty and danger apprehended on the subject is more apparent than real. He does not desire to see any more restrictions imposed upon the people than are necessary. He feels that our fault is, in conceiving ourselves perfect, which he, (Mr. R.) by no means does, for by what process of ratiocination can we take upon ourselves to say that we are wiser than our children will be? And if they should hereafter desire to amend the constitution, it is nothing but right that they should have the power to do it. He (Mr. R.) is no more desirous than the delegate from New Orleans is to put it in the power of demagogues to prevail over the popular will, but something may creep into the constitution to which there are objections, and he believes it would be wrong to increase the disability of the people themselves to rectify it. He thinks it will make it more palatable to the people if they find they have the power to correct any errors we may commit in framing it. When once ratified, and when people settle down again under these new organic laws, calm deliberation will succeed; it may then be found that errors have crept into the constitution which require amendment; and when they are thoroughly convinced of it, they ought to have every possible chance to remedy the evil. He (Mr. R.) agrees with Mr. Van Buren, that there is no danger in leaving it to the sober second thought of the people. He has gone as far as he thought it was necessary in the report, which he hopes will not be disturbed.

Mr. Benjamin, after reflecting on the amendment proposed by his colleague, (Mr. Claiborne,) has come to the conclusion that the proposition is a reasonable and proper one. He desires to make a few remarks to explain what has led him to think so, and why he sustains it. It is universally admitted that one of the greatest curses that can befall a country, is the uncertainty of the laws, which are so constantly being changed; some improvement in that respect is loudly called for; now it is an alarming evil. It is well known that at every session of the legislature there are always more or less who come with their own peculiar notions as to certain errors that may exist in particular statutes, and that steadily devote themselves to altering or repealing them, until they get them to their taste. The following session, others come with views totally opposed to those who made the laws before to suit themselves; and they use every exertion (generally too, successfully,) to repeal all acts which had previously been passed by the same genus of politicians, but who are opposed to each other on the material principle of the law in existence;

thus laws are passed at one session and repealed at another, and the reeult is, that our laws are constantly conflicting the one with the other, and there is no stability in our system, to the great detriment and injury of the citizen. Now, if this be so, and it be a great crying evil, how much greater will it not be, if we insert in our constitution that a majority of the legislature shall have the power to propose amendments to the constitution? Why, we shall have amendment after amendment proposed at every session to suit the views of those visionary schemers who cannot accomplish what they aimed at without such amendment.

It is not questioned that in all republican governments majorities must rule; but it is no less true that the constitutions of all the States are made for the purpose of protecting the rights of the minority from being trampled upon by the majority; and that the only reliance the minority can have, is the measure of restriction thrown into the constitution by which they are to be governed. Without the constitution be framed in such a way as to accomplish both these ends, it will be an useless instrument. He (Mr. Benjamin) has advanced that doctrine on this floor more than once; but this day he is strengthened in his position by the language of the President of the United States, James K. Polk, an authority which he does not believe will be questioned, by the gentlemen who are opposed to the position taken by him, Mr. Benjamin.

In his inaugural address, he says:

"By the theory of our government majorities rule; but this right is not an arbitrary or unlimited one. It is a right to be exercised in subordination to the constitution, and in conformity to it. One great object of the constitution was to restrain majorities from oppressing minorities, or encroaching upon their just rights. Minorities have a right to appeal to the constitution as a shield against such oppression."

Who will not agree to that? It is the only true and correct doctrine that can be sustained in a country where we are governed by constitutional law. But if you leave your constitution at the mercy of a single vote in the legislature, you may just as well stop your labors, for you cannot progress without breaking down one of the fundamental principles of our system of government, viz: that constitutions are made for the protection of minorities. In such a case, the protection is null and void, and it would be better to have no constitution at all, than to rely upon any thing so illusory for protection against the sudden changes of popular feeling. Doubtless all the members of this Convention are actuated by a desire to make the constitution one of a permanently, beneficial, and lasting character. What is proposed to you to accomplish that desirable result? Simply to say that two-thirds of the legislature shall be required to propose any amendment to the people ere it be deemed necessary to raise it as a question before them. When that is done, the people themselves are to determine. At the second legislature a majority coming fresh from the people and knowing their wishes, will be sufficient. He, Mr. Benjamin, thinks that no more reasonable proposition could have been made, and he fully coincides with his colleague, Mr. Claiborne. The argument used in opposition to it is, that the people will always have it in their power to prevent any improper amendment from succeeding, as they can prevent it at the election of the second legislature; but that is not a good argument, for the people having confidence in their representative, will doubtless ratify and confirm his acts relative to the amendment and will send him back to finish the work which he has begun, and thus the minority are placed in the power of the majority, and what it is necessary for us to guard against is, that the power be not delegated to them, for such an abuse, as will inevitably result from trusting an unscrupulous majority.

But there are other evils to be guarded against, because it is not always that the majority in the legislature represents the majority of the people of the State, and therefore it is no proof, because such majority may be found, that the people at large desire such alteration in their constitution; and it is more than likely that scarcely a session will pass without having amendments made to the constitution, by bare majorities; and then we shall be constantly agitated by these appeals to the people, to know whether such and such an amendment shall be confirmed or rejected. A constitution is not a piece of patch-work, for people to tinker on. If we are guilty of any great oversight in making it, it will not be diffi-

cult to get two-thirds of the legislature to propose an amendment, if palpably defective. As much then, as there is reason to expect such prompt amendment on the one side, there is also as much to fear that questionable amendments might be forced through, if it only required a bare majority; but you may depend, if a constitution be made to serve the purposes of a party, it is no constitution, but a political engine, to crush minorities. He, Mr. Benjamin, will not go so far away as Pennsylvania, which State the delegate from West Feliciana has called our attention to, to show the efficacy of the proposed system; he will go no farther than to our neighboring State, Mississippi; she is constantly agitated by such amendments; not a session passes her legislature but what they make some amendments or alterations in their constitution, until at last it has become a complete piece of patch-work, bearing no kind of resemblance to what it was at its adoption. Are the people of this State prepared to follow that example? And yet they are bound to adopt or reject the constitution when placed before them; and if they adopt it, we are just as likely to have just such a piece of patch-work as they have. The delegate from West Feliciana, (Mr. Ratliff,) boasts of the time which it took to get this Convention called together; but if one party can change it every four years, by a simple majority, we shall have no other constitution than the will of that majority. For instance, the legislature which has just adjourned, if they had had the power to propose any such amendment as is herein contemplated, the legislature, to meet in 1847, could, in January, 1847, pass on it a second time, and put it before the people for acceptance or rejection; thus, in less than four years, an obnoxious amendment may be hurried through, step by step, depriving the minority of their rights. He feels convinced there is no safety for them, as the report stands; and that by inserting two-thirds, a geat evil may be remedied. He hopes the Convention will reflect on it well, and that they will not now destry the work of their own hands. The object of a constitution is to protect all equally, not to give one portion a right to impose on another portion of the citizens; and that cannot be called a restriction, which is intended as a protection to the rights of the whole equally.

He shall support the amendment of his colleague, (Mr. Claiborne,) and hopes it will prevail.

Mr. Marigny does not agree in opinion with his colleague, (Mr. Benjamin.) He thinks the report of the committee is well enough as it is, without the proposed amendment. Whatever may be his, Mr. Marigny's, opinion of the learning and ability of the members of this Convention, he is, nevertheless, not satisfied that it has absorbed the whole talent of the State. He sees no reason to doubt that future legislatures will contain as many talented and enlightened minds as are to be found in this hall; and he should not be surprised to find them still more able; for in proportion as we advance in extending our population, it is reasonable to suppose that our future course will also be marked, as well by great improvements in the science of goverument as in the other arts and sciences. Besides, it is to be supposed that whenever any amendment to the constitution shall have been favorably entertained, and proposed by the legislature, and which cannot, notwithstanding, have any force or weight, until the people shall have three times passed upon its merits, and it had also gone through a second examination by a legislature, chosen expressly with the knowledge of the people, that they were to act upon it. It is to be supposed, he said, that the legislature had not acted precipitately in the first place, if it should successfully pass through all those ordeals, and that no serious consequences would be likely to result from the adoption of the amendment.

By insisting on a vote of two-thirds of each house, you will render it next to impossible to make any amendments to the constitution at all. If a majority of this Convention, whose business it is to revise the old constitution, is considered enough to settle any principle requiring attention in it, why is not a majority of the legislature capable of discussing and determining on the propriety of submitting an amendment, of their own constitution, to the people themselves? They must surely think poorly of the legislature, as well as of the people, when they deem it necessary to throw so many impediments in the way of both of them.

Such a measure shall not be sanctioned by him, for he thinks all proper guards are thrown around the question by the commit-

tee, to prevent it from abuse; and he shall therefore sustain the report.

Mr. Soule proposed to his colleague, Mr. Claibore, that three-fifths would be more likely to meet the views of the Convention, and hoped he would accept that amendment to the one offered by him. While, on the one hand, although the legislature may be every way competent and worthy, he should not like to see an amendment left to the mercy of a single vote: on the other hand, he is not desirous of seeing too much restriction. He thinks by placing it on the footing he recommends, (of three-fifths,) the fears of those who dread the constant changes in the constitution will be allayed; while, at the same time, we shall be responding to the just wishes of the people.

Mr. Claiborne accepts the amendment proposed by his colleague, (Mr. Soulè) but before he takes his seat he desires to say a few words to the delegate from West Feliciana, (Mr. Ratliff) in regard to what has fallen from him as to the difficulties which there were to get the legislature to present the question to the people, whether the constitution of 1812 should be altered or amended or not. It is true that a bare majority was only required, but the gentleman ought also to have stated that the law was compelled to be passed within twenty days after the meeting of the legislature. The shortness of the time allowed by the old constitution was a far greater difficulty to surmount than it would have been to got a vote of two-thirds, later in the session. He knows full well that that was the greatest difficulty in the case; besides that there was another, which was, that many of the members threw difficulties in its way, fearing that the whole constitution was to be changed. He desired to state these facts, to account for the position assumed by the Orleans delegation in former years, in opposing the call. It was not against the principle they contended, but it was owing altogether to her peculiar position at that time. She had then but six members in the lower house and one in the senate; she was treated with much more injustice than now. Her representation was so small, compared with her rights, that we could not object to come here to represent her large interest with only seven members. But subsequently a new apportionment was made, and she received something nearer her just quota. The gentleman from West Feliciana must himself recollect, that after her representation was increased, New Orleans did not oppose the call of the Convention as she did when so unequally represented as she was with six members.

His main object in proposing to amend the report before us was, as he has said already, to do away with such continual agitation, both in the legislature and among the people. He does not believe that they want to change sections of their constitution as regularly as the leaves blow from the trees in the fall of the year. In fact, he thinks it better that a constitution should remain imperfect in some of its parts, than that it should be made the play-thing of parties, orpolitical agitators.

Mr. Downs will sustain the report of the committee, in preference to the amendment offered, which requires three-fifths of the legislature to propose any amendment to the constitution we are now framing. He has paid particular attention to the quotation read from President Polk's inaugural address, quoted for the first time, so unexpectedly and in such flattering terms, by the honorable delegate from New Orleans, (Mr. Benjamin,) but he does not think they are properly applicable to the matter we have now under discussion; in fact he does not think they have any application whatever to it. No one denies that minorities ought to be protected; but that is no reason why they alone should make the constitution, or why they should prevent an amendment being made in the constitution, called for by the majority. A convention is called for the purpose of making a constitution, which is a compact between the whole people, and the majority of that convention is to decide on every question of interest to them as a whole. Therefore, it is neither two-thirds nor three-fifths, nor any thing but a simple majority who have the right of deciding any question here. The same rule applies in our legislative bodies, and the same principle was recognized by the Convention of 1812; and yet, if the principles laid down by Mr. Polk be applied in the sense, and the construction given to them by the delegate from New Orleans, (Mr. Benjamin,) it would be made to say that the majority should yield to the will of the minority. That the minority

and not the majority, should govern. If that be not the basis of his argument, why is it that the legislature, (who is not assembled to make a constitution, but laws under that constitution,) should be required, when they see an amendment necessary to that instrument, to have two-thirds of the members of that legislature supporting that amendment, before it can be submitted to the people, unless it be the adoption of the doctrine that minorities ought to govern majorities? Certainly then, when you come to make the application to this new constitution, they have no analogy to each other. The majority here and every where makes the constitution, not the minority. The difficulty of getting two-thirds or three-fifths of the members of the legislature to propose an amendment to the constitution would be so great, that to adopt either would be tantamount to saying there never should be an amendment to it.

He can see no reason why we should adopt such a principle, for certainly if we do, we never can amend the constitution. It has become usual in America to amend their constitutions in a peaceable and orderly manner. In other countries, many of them amend their's by bloody revolutions; and why should we tie up the hands of our citizens, and say to them, you shall not amend your constitution, and that to submit to it is better than violence. He (Mr. Downs) recollects when, many years ago, he first came to the bar, the idea prevailed, and he heard the remark made by a very distinguished man, that the constitution of 1812 never would, nor could be amended; and when asked for his reasons, he said they were many: First, that there would be the opposition to it of all those who held offices for life, under that constitution. Second, the short time allowed under the constitution of 1812—twenty days only being allowed to consummate the bill after the first meeting of each legislature, being all but saying it could not be done. And, third, that the difficulty still stronger to be surmounted than all, was the manner in which the question should be put to the people. Subsequent events, and the delays which he (Mr. Downs) has witnessed, and the difficulties which he with others has contended against, to surmount all these concurrent oppositions to the measure, have long since satisfied him that the gentleman who years ago made that remark to him was right; and he knows further, that if two-thirds of the legislature had then been required, that we never should have been in attendance on this Convention; and so it will be, when we say that two-thirds sha l be required before the legislature can propose an amendment to the constitution we are now making; no amendment ever will be made—and our agreeing to any such amendment virtually says, that when this constitution is adopted it is to last forever, and never can be amended. For this reason alone he would feel bound to sustain the report of the committee, were there no others. The probability is, that a very long time may and will elapse, before any great change will be called for in the constitution; but there may be one or two small points overlooked, which can gradually be remedied by the legislature and the people. He does not desire to see these small amendments refused without the necessity of uprooting the whole instrument; and he thinks the plan proposed by the committee the most conservative of any that he has seen. People, when they become familiarized with the constitution, will become more and more attached to it, and will not desire a change; at the same time they will most likely claim the privilege of altering or amending any portion which works adversely to the interests of the whole—and then it is that the power of the legislature should be acknowledged, and that the people should be heard through their representatives, and the right should be in them to pick out any particular clause, and amend it, if a majority of the people demand the change. On the one hand there can be no danger, for it must be sanctioned, not only by the legislature, but by the people also, no less than three successive times. On the other hand, we have a constitution which is placed in the hands of the minority, and the majority of the people cannot touch it, or alter or change one single word in it, unless it pleases the minority to let them. Now, let us suppose that the point sought to be amended were a very important one to the interests of the whole State, and some local cause or interest were to stop it forever, on account of the two-third or three-fith rule being applied. Will the people tolerate it? and the first question

they would ask, shall or shall not majorities govern? For his part he thinks they ought to govern, and that they will. There is no necessity for hasty changes; for, as experience has proved, one party or the other hold the power of government in their hands for a succession of years, and they would do nothing that could impair the confidence people had in them. It could not be done by the sudden move of any party, for party purposes. Consequently there is nothing to be dreaded from hasty changes in our constitution; and those who advance that doctrine base their argument on an absurd theory.

Mr. Downs hopes the amendment will not prevail. We are constantly improving in the science of government, as in all else, and we ought not to tie either our own hands or the hands of those who are to come after us. We ought not to say that we shall not alter or amend the constitution, for we do not know what new necessities may arise; at any rate, we ought not to fetter down those who are to succeed us, but leave them free to take advantage of their own situation, and make their organic laws to suit the necessity and requirements of the age they may live in. There will be no excitement from a free and fair discussion—agitate measures as much as you please, that tend to ameliorate the condition of the citizen; submit them to the legislature and the people as often as you please; that can do no harm. The only real cause for agitation or revolution is, when the people are cramped, fettered, restricted and oppressed.

Mr. Conrad remarked, that when he read the report of the committee, it met his entire approbation. He yet approves of the principle contained in it, which provides for the partial amendmet of the constitution, in preference to calling a Convention for every slight alteration it may require. He thinks it is expedient, and is a happy idea; but when he comes to look further into it, he finds that we shall be going too far, in giving to a bare majority of the legislature the power to bring forward any measure of amendment they saw fit. To say nothing of the expense it will cost the State in publishing the amendments, which may be offered by those who have the power to make their chimerical notions bear a reasonable semblance, and thereby carry with them a majority of the legislature, but which, when adopted, are invariably a fruitful source of regret to all engaged in it. We must bear in mind that we have another duty to perform; and that is, to prevent any article containing in it a dangerous principle of innovation on the rights of any, either the majority or the minority; and more especially to place it beyond the power of the former to oppress the latter. It is moreover admitted, that all constitutions are made to furnish *to the majority* a check *upon themselves;* to guard them against momentary impulses, which are so often afterwards regretted.

Nothing is more true than the assertion made by the delegate from Ouachita (Gen. Downs,) that, in our form of government, majorities alone should govern; but while admitting that, it is equally true, that there shou d be no doubt or question that that majority of the whole people does exist in the majority of the legislature, before power shall be entrusted to *that* majority which *may* deprive the real majority of the people of their just rights. The power, then, he admits should be reserved to the majority of the people. No change in the constitution ought to be made rashly, hastily, and without the greatest necessity, and without due reflection withal; and he (Mr. Conrad) thinks it would be more wise, more politic, and more in accordance with the will of the majority, to submit to some slight imperfections in our social compact, rather than run headlong into every wild scheme that may be proposed as an amendment to it; and thereby accustom ourselves to perpetual changes. We should endeavor so to frame our constitution that it shall have a stability about it which will not require constant alterations. An instance of the necessity for permanency in a constitution is given in the history of Greece, where a distinguished and celebrated philosopher and statesman, after making a code of laws for his country, prevailed upon the people to swear on their oaths not to change it till his return, which they did. He never returned, for he died abroad; but although the people would have committed perjury had they changed it in their own time, they had no cause to regret it, for the system worked well, and was not subject to the constant uncertainties to which we are liable in these days. Can it then be considered

unreasonable to ask that three-fifths of the legislature should be required before any amendment shall be made in our constitution? He thinks the more it is reflected upon, the more it will be apparent to every member of the Convention, that it will insure to us that very stability we require.

But the honorable delegate from Ouachita, (Mr. Downs) contends that thereby we shall be depriving the majority of their rights. He must pardon me for saying that is not so, for when he himself comes to reflect a moment, he is bound to admit, from his great experience in legislative business, that the legislature is very frequently not the mirror of the people; but on the contrary they do not reflect the feelings of a majority of the people.

How can it be said that the legislature who proposes the question of amendment the first time, is expressing the wishes of a majority of the people? They were not elected with any such question before the people, and if they were instructed, it would most likely be by a minority of their constituents. Men are generally elected to the legislature on account of their personal merit, and consequent popularity; from which the people expect to derive some local benefit, but those very electors would never have chosen them, if they had supposed they were to touch the constitution. It is clear then that such members are not elected on the question of necessity to amend the same, and therefore that cannot be called "placing it once before the people."

But take the plan proposed in the report, and what will be the consequence? Although they assert that which I am willing to admit, there cannot come any harm from submitting a question to the people, it is nevertheless clear, that if we do not put a check upon unnecessary changes and amendments, that they will be constantly and continually made. I admit there is no harm, I say, in submitting a question to the people, but there should be some safeguard in the constitution to prevent these frequent recurrences of constitutional questions to the people. Suppose the first legislature elected without reference to amending, should propose an amendment, and the second legislature ratifies what the first has done—the chances are, when the people begin to study and examine them, that nine out of ten of them will be rejected, and then all the expense in promulgating these theories, will have to come out of the pockets of the people at last.

Mr. Conrad need not go far away from home to show the fallacy of the arguments advanced against the necessity of a check upon sudden innovations in the constitution of a State. He has it on good authority, that in the State of Mississippi, no legislature meets or has met there for years back, but what some alteration is made in the constitution, and so steadily and so laboriously have they worked at it, that it is now little more than a common statute, something similar to our code of practice. We want a medium, and in that the delegates from West Feliciana and Ouachita (Messrs. Ratliff and Downs) say they agree with him; but when we come to compare notes, they say we are going to extremes, and that it is not right to put it out of the power of the people; but have they reflected where their doctrine will carry us? Surely not; for every reasonable person will admit that a middle is always preferable to an extreme course, in any case.

The difficulties which will exist in taking the plan proposed by Mr. Soulé, viz: of amending the article so as to read three-fifths instead of "a majority" of the legislature being required to entertain an amendment to the constitution, will certainly be much less, and more easily overcome, if proper, than the old plan of having to force it through in the first twenty days after the meeting of the legislature. For a while we heard that it was impossible; that it could not be done; but yet we see that popular sentiment has prevailed, and here we are altering and amending the constitution. Even with that modification, then, it would seem that it was accomplished, and what therefore, have we to dread from the easier task of getting three-fifths of the legislature, when we have overcome a so much greater one, without any of those frightful evils with which we have been so much and so often threatened, if Mr. Soulé's amendment to Mr. Claiborne's should prevail. He (Mr. Conrad) will surely sustain the amendment.

Mr. Wadsworth: I have but one question, Mr. President, to ask of those gentlemen, who oppose the amendment offered by the delegate from New Orleans, and that

is, what is the object of a Convention, unless it be to protect minorities in their rights? Any body with half an idea, must have seen how often majorities trample on the rights of minorities when they have the power to do it; and he (Mr. Wadsworth) knows, on many occasions, that the members of the legislature have proved as great tyrants as ever the Czar of Russia was. There is not, there cannot be anything like perfect equality, until the minority can say to the majority, "thus far shalt thou come, but no farther." We of the minority have the privilege of asking protection in our rights, and but for that, why do we make a constitution? It is a matter of great satisfaction to him that he can refer, as has done the delegate from New Orleans, (Mr. Benjamin) to such good democratic doctrine as we have, coming from such a distinguished and elevated man as the president of this great republic of freemen—from the man who holds the first office in the world; for there is none so dignified or morally sublime, as to be at the head of a free people capable of self-government. President Polk says:

"One great object of the constitution was to restrain majorities from oppressing minorities, or encroaching upon their just rights. Minorities have a right to appeal to the constitution as a shield against such oppression. That the blessings of liberty which our constitution secures may be enjoyed alike by minorities and majorities, the executive has been wisely invested with a qualified veto upon the acts of the legislature."

That very principle, the veto, is what we ask you to accord us, and let that veto be in the people through their representatives. Don't change the constitution you are making as well for the interest of majorities as minorities, unless three-fifths of the legislature think the amendment is imperatively necessary. We are told that we are further protected by the veto of the governor. In ordinary matters it is right and proper that the veto power should be in the hands of the governor; and the only object of introducing a restriction in a constitution is to create a people's veto, and that is the very object of introducing this amendment. It is to take away from corrupt or venal men, (if any such there be in the legislature,) the power to trample on the rights of the minority.

How do those gentlemen who oppose this necessary restriction, account for the restriction which was imposed on the city of New Orleans in the removal of the seat of government, which cannot be brought back at all, and which cannot be removed from some spot to be selected sixty miles above the city, unless four-fifths of the legislature agree to it? And yet, here, while we are deciding the most important matter which can be brought before us, and which may produce the most grave results in the success or failure of this very constitution, we find them on one side to-day, on another to-morrow. Then, they say, they want a restriction of four-fifths; now, they say, they want none at all, on a question which needs it more than any other portion of the constitution! Out upon such consistency!! He (Mr. Wadsworth) will sustain the amendment for these reasons.

Mr. Soule feels it a duty which he owes to himself and to the Convention, to explain the motives which governed him when he proposed an amendment to the amendment offered by his colleague from New Orleans, (Mr. Claiborne.) While he agreed with the honorable delegate from Ouachita, (Mr. Downs) that majorities must rule in republican forms of government, still, it is nevertheless as clearly and positively an admitted fact, that the making of a constitution is mainly for the purpose of protecting the minority, and to restrain the majority from the abuse of power, which they would otherwise have the right of exercising, without such check as can be provided in a constitution.

There are two grand objects before us for consideration in this question; the one is a declaration of necessity for amendment—the other the trial of the question before the supreme authority, the people. Now, so long as it is not before the people, it cannot be considered as properly before the legislature, who have never consulted their constituents on it; but who may be induced from a variety of motives to press an amendment to the constitution, and thereby press it upon their constituents, who never dreamt of, nor ever wanted it. Why then is it needed to place a restriction on the people, by saying to them, as you virtually do, that

they want a change of which they never had any idea, and on which you have never consulted them? But at the same time it is not right to check too far the will of the majority of the people, (particularly if it does not encroach on the rights of the minority,) and in the proper protection of the rights of the majority, he will go as far as the member from Ouachita, (Mr. Downs.) Therefore, the legislature is the proper place where such amendments should be proposed; but in order to guard against continual excitements at every session of the legislature, and furthermore especially to save the expense to the people, besides the trouble we put them to in calling upon them too often—and further, thinking a middle course was the wisest, most just and fair, that he had offered the amendment of three-fifths to the motion made by his colleague, requiring two-thirds. He would have gone for the report as it stood, had he not clearly seen that a single vote would have the power to carry amendments before the people, of which, perhaps, five out of six would result in no beneficial effect.

Mr. Preston thinks that every one will admit that the proposal submitted by the committee, in the report before us, is less liable to objection than the rule we have in our present constitution. The only question for our consideration is, which is the best way to set it to work in such a manner as will answer the ends aimed at. A new question has been raised upon us, in relation, to it, of a restrictive character, viz: that three-fifths of the legislature should be required to adopt an amendment to the constitution; but he (Mr. Preston) dislikes any of these restrictive measures, and therefore agrees with the report of the committee, as made. He will endeavor to show, by a simple fact, that if you take away from the house of representatives the power of moving an amendment to the constitution, by a majority, that you can have no chance in the senate, because they are no index of the popular will, (for it is admitted that they are to be organized on a restricted plan.) And further, if you press that question at all, there the chances are always against popular rights, when you have to appeal to a body of men, who are elected to restrict, *not to respond* to popular wants. It will be the inevitable result, if this amendment prevail, that a small fraction of the senate can defeat at will, any measure connected with the required amendments to the constitution, which may have been unanimously passed by the lower house; and thus a fraction even of the minority may fetter down the majority forever.

The proposition in simple form amounts to this, that one-fifth of the senate shall paralyze the action of the whole of the house of representatives. Such a doctrine is anti-republican, and inexpedient, for it says the people shall never have an opportunity to change their organic laws.

The extract which has been read to you from President Polk's inaugural address, has nothing to do with the case we have now before us for consideration; it is a perfectly different matter; he refers to the constitution of the United States, and not to separate States. He evidently meant that many of the States who had an identity of interest, should not oppress any two or three other States—as for example, the free States have no right to interfere with the slave States—but that has no kind of relation to the making of a constitution of any one State; for if it had, the next thing you would hear, would be that any one of the three branches of government, created to carry out the will of the people, had no right to pass any laws, for fear a small majority should swallow up the minority. Far beyond that is the question we have now to determine, which is whether a people shall have the right to amend their own organic laws when they don't suit them; or whether they shall be fettered down and restricted by the vote of *one-tenth of the people*, by means of the vote of one-eighth of the senate.

Have you ever reflected what such a state of things would result in, if we adopt this three-fifths amendment? You would be laying yourselves open to abuses of all kinds, in all the departments of government, but more especially in the judiciary. It is proverbial, even in republican governments, that those who are in office, will have a blind side to the defects of the incumbent. If you have not properly reflected on what the result would be, it would be well to say to you, that if you deprive the people of the watchful power which is provided for them in this report, you will at one single blow dash down the whole edifice of democracy,

and not alone destroy it for ourselves, but for those who are to come after us.

To make an organic law, or any other law, we must have some spontaneous expression of popular will; and if either is to result beneficially to the people at large, why should we restrain it? Why should we say that in ten or twenty years hence, those who then may be desirous of changing their senatorial representation, should be debarred from doing so, although the senate may have become like so many rotten boroughs? By pursuing the course we do towards them, we say to them, we know what is better for you than you do yourselves, and, therefore, we have determined that two-fifths of the legislature shall control your action in remedying or righting your own grievances. But all such arguments are based on false premises. Let it be reflected upon by those around me, and who have had every opportunity to study facts as they have appeared upon the very face of things for the last twenty years. Let them look at the progress that has been made in the arts and sciences, in mechanics, in agriculture, in morality, and then say if they have reason to expect that those who may survive for that period, or those who are now pursuing their onward course, are likely to retrogade from what we are now? Where then the necessity to restrict them in their dearest privilege—that of self-government—without forcing them to go to the tedious and expensive form of a State Convention? Those who are to come after us, advancing, as the world is, in morality, in peace and tranquility, and in the repudiation of vices which have been too common in our days, will certainly know better how to govern themselves than we can. The great bug-bear which is held out to us is, that it will create too much agitation. Agitation is feared in monarchial governments; kings tremble when it is mentioned; but popular governments ought not to dread it, for popular will is the breath of their nostrils—they cannot exist without it. To agitate a question that is to result deneficially to our fellow man, cannot be injurious in a free government—on the contrary, it must be beneficial. We should encourage men to study government in every department. The only means of learning any science, either of political government or any other, is by study; and if no question or problem is ever propounded to a man for study, why his intellect would be as a stagnant pool. It is true that in England and France popular rights are not studied, but it ought not to be so with us; and, thank God, here the humblest peasant, the poorest man in the community, who is gifted with intelligence, has not only the right to think for himself, but may pursue his course of ambition with the rest, until, if he have merit and integrity, he may reach the pinacle of fame.

We have heard a great deal about agitation, and about demagogues, but they have yet failed to show us where the latter exist in these times, unless it be those who strive to learn; and as to the former, he (Mr. Preston) thinks the more there is of it, the better, if in a holy cause; and none can be more so than that which is to ameliorate the condition of man, politically or otherwise.

It is far wiser and better then, to leave to a majority the power to act, when you have placed all proper checks to prevent haste in legislation, and to leave them then free to act as to them may best seem fit. All other methods will be at war with republican government; and you might just as well say that henceforward minorities shall govern; which you know right well would lead to bloodshed and civil war.

The question was then put on Mr. Soulé's amendment of Mr. Claiborne's motion, it was to strike out the words "a majority," and insert the words "three-fifths;" and resulted as follows:

Messrs. Beatty, Benjamin, Boudosquie, Briant, Cade, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Dunn, Garcia, Kenner, La bauve, Ledoux, Legendre, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soule, Taylor of Assumption, Voorhies, Wadsworth and Winder voted in the affirmative—29 yeas; and

Messrs. Brazeale, Burton, Chambliss, Chinn, Covillion, Culbertson, Downs, Garrett, Hudspeth, Humble, Hynson, King, Lewis, McCallop, McRae, Marigny, Mayo Peets, Penn, Porche, Porter, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Waddill and Wederstrandt voted in the negative—29 nays; the vote being equally divided, the president voted in the negative, consequently the motion was lost.

Mr. Boudousquie gave notice that he would, on a future day, move the re-consideration of said vote.

Mr. Conrad moved to amend by inserting after the words "members elected to each house," the words "and approved by the governor;" which amendment was adopted.

On motion, the Convention adjourned till to-morrow, at 11 o'clock, a. m.

Thursday, March 13, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Goodrich opened the proceedings with prayer.

Mr. Peets presented a resolution rescinding the rule of the Convention for the meeting at 11 o'clock, and prescribing that the Convention shall, for the future, meet at 10 o'clock, A. M.

Mr. Humble moved to amend by making the hour of meeting at half past 9 o'clock, but subsequently withdrew his amendment.

Mr. Peets' resolution was then adopted.

Mr. Chinn said he did not feel altogether satisfied with the vote given by him yesterday upon the question, whether it should be a majority or three-fifths of the legislature, who should propose amendments to the constitution. He would therefore move for a reconsideration, with the view of changing his vote, which motion prevailed. And upon his further motion, the section was laid on the table, subject to call.

ORDER OF THE DAY.

The Convention resumed the consideration of the article touching the mode of revising the constitution.

Mr. Downs said, that after a careful examination of this section, he was convinced there was nothing to justify the fears that had been expressed. The mere fact that the legislature are obliged to act upon amendments that may be suggested at two different sessions, and to promulgate their action thereon through the public papers; and the total impotency of the legislature to carry into effect, without the express assent of the people, any such amendment, rendered the power of the legislature dependent on the will of the people, and removed the slightest ground of apprehension. It is then useless to alarm one's self, or to alarm others, by supposing that the legislature would be enabled to change, at will, every disposition in the constitution. Moreover, I have not understood that it should require more than a simple majority of the legislature to determine whether an amendment should or should not be submitted to the examination of the people—especially, when it is expressly provided that the amendment shall not be embodied in the constitution, unless it receive the express assent of the people. It would be as well to abandon the section altogether, if the action of the legislature is to be restricted to two-thirds or three-fifths; for I conceive that the legislature have the power by a simple majority, to propose, at any time, amendments which they may judge expedient. And the people have the undoubted right to make amendments whenever they may conceive these amendments to be essential. I invoke the serious attention of members to this subject. I consider the section as conservative, and I trust that no greater restriction will be placed upon the legislature to propose amendments than the bare majority of the two houses.

Mr. Lewis did not propose to discuss the matter, but would make an explanation in reference to a particular point. The difficulty was to ascertain the majority of the voters, and the only way to avoid that difficulty was, to have a census of the good people of Louisiana. If this census were not provided for in the constitution, it ought to be. When amendments were suggested by the legislature, and voted on by the people, the difficulty of ascertaining whether those who voted with the majority in favor of the amendments, were actually the majority of the voters, would vanish upon reference to the last census. He presumed it would not be pretended by any one that less than a majority should have the right of changing the organic law. He was willing to concede that a bare majority of the legislature would suffice to suggest amendments to the people; but we must, to be consistent, require a majority of the electors to ratify the amendments. If the majority desired the amendments, they would declare them to be necessary. He considered that the will of the majority should govern, but the expression of such will should be placed beyond the shadow of a doubt. The reverse of this principle, he thought, was anti-democratic and anti-republican.

Mr. Lewis thereupon proposed to amend the section so as to require a majority of the whole number of electors.

Mr. Preston was opposed to this amendment, because it would be impracticable, and might be employed by the minority to defeat the expression of the public will. He saw no good reason why those who did not vote should be counted as opposed to the amendments proposed by the legislature to the constitution. A large proportion of our citizens were men of business—enterprising citizens who might be for the moment out of the State, and be unable to vote upon the question. Others might be sick. Again, in certain quarters of the State, by reason of the high waters, many voters might be debarred from expressing their concurrence; and thus, although in fact an immense majority were in favor of the amendments, they would be defeated from casual circumstances. It was a fair inference that every citizen who placed any value upon the right of suffrage, would vote if it were possible. Such citizens were the only ones who should, in fact, be counted upon such an occasion. The importance of the questions would excite the greatest degree of interest—they would be canvassed, and it was reasonable to presume that the friends and opponents of these measures would vote in mass. The lazy—those who were too indifferent or too indolent to go to the polls—ought not to be counted. The rule proposed by the gentleman from St. Landry (Mr. Lewis) was too uncertain. The only certain rule was to base the decision upon those that actually went to the polls.

I hope, said Mr. Preston, that the gentleman (Mr. Lewis) will not insist upon his amendment, but will leave the section as it is.

Mr. Dunn could not concur in opinion with the delegate from Jefferson. On the contrary, he thought that every amendment to the constitution should receive the unequivocal assent of the body of the people, for the constitution is designed essentially to protect the rights of the minority. It is not only the electors who are involved in the amendments that may be made to the organic law. Our wives and children, transient persons, and those who may not have the right to vote, are equally interested. The guarantees for their protection should be inviolably maintained, and not be subject to sudden changes.

Moreover, said Mr. Dunn, there was something solemn and positive about the enactments of the constitution; something stable and fixed, that rendered that instrument essentially different from the mere acts of the legislature. These latter were the resolves of a simple majority, and were open to amendment whenever the passing convenience or the necessities of the majority might require it. It was proper enough they should be subjected to a simple majority, as they were acts of mere expediency; but for the constitution he could not assent to the same principle. The constitution was the social compact. It was not a mere passing thing, but it was the basis upon which the institutions of the country reposed. It was for the benefit of all; and it should not be subject to sudden revulsion upon every evanescent change in the popular current. It was, in its nature, designed to be enduring, and should not be heedlessly or lightly touched.

Mr. Ratliff apprehended that this amendment would produce similar difficulties to those which arose from a similar disposition in the old constitution. It will be difficult, if not impossible to discover whether the actual majority of the electors have voted in favor of the amendments proposed to the constitution. There will be great contrariety of opinion, whether the majority that may have voted in favor of the amendments, are a majority of the total number of electors. In that way, the will of the majority may be thwarted. Moreover, the section contemplates an interval of four years, for the amendments will have to be submitted to the action of two different sessions of the legislature. The people will have sufficient time for reflection, and it would be hard indeed if the neglect of some persons who failed to vote, should deprive the majority of those that voted of a desirable reform. It is an unjust principle to infer, as in the old constitution, that those that did not vote were opposed to reform. The inconvenience of that rule were manifested in the difficulties that attended the calling of this Convention; that desirable result was procrastinated, and beset with impediments, that were overcome only after a great deal of trouble and perseverance.

I am sure, said Mr. Ratliff, that the delegate from St. Landry, (Mr. Lewis) with his accustomed penetration, will see that his amendment will occasion much embarrassment, and may be invoked as the means to defeat the will of an actual majority of the people. It will be borne in mind, that the act of consulting the wishes of the people as to the expediency of calling this Convention, was concurred in by a much smaller majority on the first than on the second occasion.

As to the dangers assumed to exist if the amendments are placed within the competency of a simple majority of the legislature, I think that the delegate from Ouachita (Mr. Downs) has shown it to be illusory. In the State of New York some such restriction exists as has been intimated in this debate, but it must be recollected that the sessions of the New York legislature are annual, and that these questions are submitted and decided by the people within two years. Whereas, the sessions of our legislature being biennial, four years will intervene, affording ample time to the people to determine whether they deem the amendments necessary.

I should prefer the section without the amendment; but if the delegate from St. Landry insists upon it, I shall vote in its favor rather than to lose his valuable cöoperation.

Mr. Lewis said he certainly could not think of withdrawing his amendment. He deemed it just and proper.

Mr. C. M. Conrad said he differed totally in opinion from the delegate from Jefferson (Mr Preston.) So far from considering that those that did not vote upon such amendments were in favor of them, he thought the contrary inference should be drawn. It was a fair presumption that they conceived the constitution to be good as it was, and that they desired no change. He admitted that when these amendments were involved, we should endeavor to ascertain the will of the actual majority of the electors; but how could that be ascertained positively? There are serious difficulties in relying upon the census, as proposed by the delegate from St. Landry, (Mr. Lewis) as the test by which the majority would be ascertained. The duty of making the census is generally confided to persons incapable of determining the various legal questions that would arise as to residence and naturalization, and many persons would be placed thereon who were not legal voters. From the nature of the proceedings, names migh be placed upon the roll that ought not to be there, and others omitted that ought to be there. How is it possible to ascertain whether the majority of those voting are in fact, a majority of the whole body of electors? The subject is surrounded with difficulties. I will suggest an amendment; it does not satisfy my mind, but it may in some measure obviate the difficulty. I would propose that the questions for amendments shall be twice submitted to the people, and shall only be considered binding when ratified by a majority on both occasions.

The amendment of Mr. Conrad was not adopted.

The question then recurred on the adoption of the amendment proposed by Mr. Lewis, to strike out the words "voting thereon," and the yeas and nays were called for, as follows:

Messrs. Beatty, Benjamin, Boudousquie, Brazeale, Briant, Carriere, Chinn, Claiborne, Covillion, Culbertson, Derbes, Downs, Dunn. Garcia, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Leonard, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Porche, Porter, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge, Sellers, Stephens, Taylor of Assumption, Voorhies, Wadsworth, Wederstrandt and Winder—46 yeas; and

Messrs. Burton, Cade, Chambliss, Conrad of Orleans, Conrad of Jefferson, McRae, Penn, Preston, Scott of Feliciana, Scott of Madison, and Waddill—11 nays.

Mr. Benjamin said, that the more he reflected upon the proposition of his colleague, (Mr. Soulé) the more he was convinced it was just and proper. The question that has excited the warmest interest in this Convention, has undoubtedly been the question of apportionment. The delegates from the country, however they may differ upon the details as relate to themselves, upon this and other questions, unite in solid column whenever there is a question to restrict the city; and to effect that object the more surely, they have recently resolved, that however great may be her

augmentation, arising from the increase of her population, her immense resources and the intelligence of her citizens, her influence shall be impaired by cutting her up into fragments. Her delegation have complained bitterly of the injustice about to be done her—and the violence of the dissention, and the helplessness of her position, has induced the offer of a compromise. Should this compromise be carried into effect, it will necessarily make a portion of the constitution. What will it be worth, if you sanction the principle that a bare majority of the legislature may unsettle and undermine it, as every thing else, in that constitution? What real protection will it afford to the city? It will be competent for the legislature to impose still more onerous conditions upon the city, and the city will be without the means of defending herself, for she will be in the minority in the legislature, as she is in this body.

But we are told that if we are agrieved by any of these amendments, we may appeal to the people. How are we to make ourselves heard? What sympathy will be felt for the city in the parishes of the extreme north-west? Here, in this Convention, the city is at least heard; full justice may not be conceded to us, but our complaints cannot be entirely overlooked. I see (said Mr. Benjamin) danger in the future, unless there be some positive assurance that what is agreed upon in this Convention, and which may receive the sanction of the people, shall not be subjected to the mere control of a simple majority of the legislature. If the action of this Convention is to be exposed to such an ordeal, for one, I must say, I attach but very little value to any settlement made upon questions in which the city may be interested, and which shall be embodied in the new constitution. Hence it is with extreme regret and surprise, I see any member of the city delegation lending his countenance to the proposition before us, to invest a simple majority of the legislature with the extraordinary power of promoting sudden and radical changes in the organic law.

The delegate from Ouachita (Mr. Downs) tells us that this power confided to the legislature, is a conservative power! To my mind, it is the very reverse of any thing conservative—it might with more propriety be termed destructive—for it will be destructive of every compromise assented to in the constitution, for the protection of the remnant of rights, which may be left to the city.

We do not ask (said Mr. Benjamin) that the same formalities be required to amend the new constitution as were required to amend the old constitution, although great as these difficulties have been represented, they have yielded to the popular wishes. All that we ask is that a simple majority of the legislature be not invested with the power of bringing about precipitate changes. Let there be some guarantees that the compromises solemnly entered into, will not heedlessly be disturbed, and that the rights of the minority shall not be exposed to further invasions. If this contemplated facility in amending the constitution be carried, it will be subject to the control of that party that may be momentarily in the ascendant, and it will seek to perpetuate its power by modifying the constitution so as to suit its particular purposes. All that we ask, is the restriction of one-tenth over and above an ordinary majority; and is that an unreasonable demand?

I trust, therefore, that the vote of yesterday will, upon reconsideration, be reversed. The city, it is true, is deeply involved in the issue of this question. But the country is likewise exposed to danger. To-day New Orleans may be sacrificed, and to-morrow it may be the town of Feliciana.

Mr. C. M. Conrad predicted that the very first fruits of this license to the legislature to amend the constitution, would be a proposition to return to the annual sessions of the old constitution. The legislature would come to the conclusion that it was impossible to attend properly to the public service unless they met annually. They would so manage it as to carry their point, and here would be one salutary reform that would be superseded. From this they would go on attacking the provisions of the constitution in detail, until they succeeded in making the most radical changes. Most of the provisions had been adopted in reference to other provisions. Had they been acted upon without such reference, some of them would not have been adopted, and others that were lost, would have received, in all probability, the sanction of this body.

Mr. CLAIBORNE said that in all the constitutions of our sister States, where it was contemplated that the legislature should propose amendments to the people, a similar provision prevailed, requiring three-fifths. Mr. C. in support of this opinion, read extracts from the constitutions of Maine, Michigan, Alabama, New Hampshire, &c. &c.; all (said Mr. Claiborne) good and orthodox democratic States!

The question was then taken upon Mr. Soulé's amendment, and the yeas and nays were called for.

Messrs. Beatty, Benjamin, Boudousquié, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Taylor, of Assumption, Wadsworth and Winder—32 yeas.

Messrs. Brazeale, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Voorhies, Waddill and Wederstrandt—30 nays.

The section, as amended, was then passed—40 yeas; 23 nays.

The Convention then took up Mr. BENJAMIN's project of apportionment.

Mr. DOWNS said he would vote in favor of laying this project indefinitely on the table. It had nothing in it like a compromise, and was in fact more prejudicial to the interests of the country than any other plan that had been suggested. It gave to the city twenty-three representatives out of eighty-six. It assumed the principle of equality and uniformity, but it sacrificed that principle. The city was placed by herself in possession of more than one-fourth of the representation, and if to this were added the representation of the surrounding parishes, upon the coast, and on the other side of the lake, the available force of the city in the legislature would be thirty-nine, to wit: twenty-three for the city, and sixteen for the parishes upon the coast as far as Iberville, and including the representation of the lake parishes. Take thirty-nine from eighty-six and the balance would only be a fraction exceeding one-half, which would have to be divided and split up among the various country parishes. The concentration of the city would be more than sufficient to overbalance the strength of the country parishes, which would be divided among themselves.

The city contained 19,000 free persons of color, and these, together with all transient persons, were included in the gentleman's (Mr. Benjamin's) project for the benefit of the city. It is useless to claim for it the credit of being a concession to the country. It is no concession at all, and it speaks for itself. I consider my project as essentially a compromise. It is based upon the electors, and the city has by it within one-fifth of the whole number to which she would be entitled by the most favorable basis. The gentleman (Mr. Benjamin) admits that the city should not have her full representation. What then, can be fairer than my proposition?

Mr. Downs then moved to substitute his project for that of Mr. Benjamin, with the following proviso: *Provided*; that in future apportionments the total representation of the city shall be confined to one-fifth of the representation of the balance of the State.

Mr. BENJAMIN moved for the rejection of Mr. Downs' project.

Mr. MILES TAYLOR moved to strike out Mr. Downs' proviso; which motion led to a slight debate, in which Messrs. Downs, C. M. Conrad and Benjamin participated.

Mr. MILES TAYLOR made a statistical comparison of the representation under the several projects that were before the Convention, with the view of explaining the errors which existed in the tables that had been referred to. He maintained that the basis of electors was the least favorable to the city; and certainly, he might add, the least objectionable.

Mr. BEATTY was opposed to the electoral basis; he conceived it would create great difficulty and doubt. The persons who might be deputed to make the census, might place innumerable names upon it that were not voters. This result was not unlikely to occur in the city, thronged at certain seasons of the year with transient persons, and it might be done with the view of increasing the political power of the city. Persons who were under the age of twenty-one years might also be placed upon this census.

Mr. Miles Taylor replied to these objections, that the census would be made in pursuance of that section of the constitution which would require it. If the officers charged with this duty should prove delinquent, it would be a violation of the constitutional requisition. It was not perhaps right to anticipate that result, and to infer they would lend their countenance to any such infraction.

Mr. C. M. Conrad denied the accuracy of the arithmetical calculations of the delegate from Ouachita, (Mr. Downs) and insisted that the project offered by Mr. Benjamin was in fact a compromise of the question, as far as the city was concerned.

The question was taken on the motion to lay the project of Mr. Benjamin indefinitely on the table, and the yeas and nays were called for.

Messrs. Brazeale, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Voorhies, Waddill and Wederstrandt—30 yeas.

Messrs. Beatty, Benjamin, Boudousquié, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Taylor of Assumption, Wadsworth and Winder—33 nays.

Mr. Marigny said that, instead of following a straight line, it seemed that the majority were disposed to attain their object by a crooked and tortuous path. It may be proper to recall facts which may lead them back to fundamental principles. the delegate from Ouachita (Mr. Downs) had proposed apportionment according to the federal basis. The delegattion from New Orleans, with a portion of the delegation from Lafourche, opposed that proposition. This mode had been thrown aside. Agitation and excitement have prevailed since the very inception of this question. One of the country delegates, speaking apparently from the card, got up and informed the delegates from the city, that if the city would relinquish the seat of government the difficulty would be compromised, and the city would be permitted to retain her just weight. A committee were appointed who reported a basis embracing the entire population. Their report created fresh discussions, in the midst of which the day and hour were fixed for taking the final vote; but, in the meanwhile, the question of the seat of government was decided in favor of the country.

I supposed that this concession having been made, the country delegation would have sustained the compromise offered by Mr. Benjamin; but so far from this opinion being well founded, I find that it has only escaped the fate of being laid indefinitely on the table, by a bare majority of two votes! What is the prognostic of that result? Is it designed, after inducing us to make one concession by holding out to us an inducement, to force us into another concession. The seat of government has most uncermoniously been withdrawn from the city, and a circle has been placed around the city—is it now designed to despoil us of a large proportion of our representation?

This course of proceeding, it cannot be denied, will have the effect of changing this hall into an arena for gladiators! But those that count upon their numerical force delude themselves. The rights of the city shall not be invaded—trampled upon with impunity. No sooner shall the measures be adopted, designed to prostrate the city, than I will rise and move an adjournment, *sine die*. With a certain intention, it has been circulated in the public papers, that a portion of the Orleans delegation, upon this very subject of apportionment, withdrew from the Convention in 1812, but that they were soon compelled by public opinion to return. To this allusion to a past event, I answer that the difficulty arose in reference to the apportionment in the senate, a much less important matter than the apportionment in the house; secondly, that after withdrawing, the members were induced to return, because they wished to get rid of the odious territorial government. Thanks be to God, this alternative is not now presented to us. We have a republican system of government, and the consequences will be much more pernicious for those that drive us to this expedient, than for us. I may be charged with speaking warmly upon the subject, but I conceive that the

time has come boldly to take our stand and to maintain our ground—to speak plainly and emphatically. The city of New Orleans will not submit to oppression and to wrong. You may impose on her the necessity of an extreme measure, and when her delegation have left, you may continue to pile restriction upon restriction upon the devoted head of the city. You may endeavor to sacrifice her, but she will be beyond your reach. Your constitution will be rejected. The riches, the power, the resources of the city are not your disposable effects, and if you attempt to deprive the city of her just weight, I will move for the adjournment *sine die*. It were better that it were dissolved, or that at any rate, that the Orleans delegation should not participate in proceedings destined to sacrifice the dearest interests of their constituents.

Whereupon, the Convention adjourned.

FRIDAY, March 14, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer, by Mr. STEPHENS, in the absence of a minister of the gospel.

The journal was read and approved.

Mr. RATLIFF, chairman of the committee on contingent expenses, submitted the following resolution, which was adopted, viz:

Resolved, That the committee on contingent expenses be authorized to pay Mrs. Hawley nine hundred and twenty-six dollars, for the rent of the St. Louis ball room for the sitting of the Convention, from the 13th January until the 11th of March, and other expenses, gas, water, &c., while there.

The PRESIDENT reminded the Secretary that the first thing in order was a translation of the speech of Mr. Marigny, made just before the adjournment; but the Convention dispensed with it.

Mr. RATLIFF inquired of the Secretary, whether a motion made by him yesterday, to reconsider the vote of three-fifths, then taken on the 7th article of the constitution, had been placed on the journal. He was informed it had not been, when the journal was amended, and the motion thereon recorded.

Mr. CHINN objected, but when

Mr. KENNER asked at what time the delegate from Feliciana would be ready to take it up,

Mr. RATLIFF replied, to-morrow if you will; in fact at any time—it was then set for to-morrow, at 2 o'clock.

ORDER OF THE DAY.

Which was the project submitted by Mr. Benjamin, which project Mr. Downs moved to amend by striking out all the words and sections after the word "State," and insert the following:

ARTICLE SECOND.

"And shall forever be regulated and ascertained by the number of qualified electors therein; *Provided*, that at any future apportionment, the full representation of New Orleans, with its present limits, shall be reduced one-fifth, and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. In the year ——, and every four years thereafter, an enumeration of all the electors shall be made, in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principles of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any laws after the enumeration until the apportionment shall be made. Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: Eight by the first municipality; eight by the second municipality; three by the third municipality, and one by that part of the parish on the right bank of the Mississippi.

The Parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2

The Parish of	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East do do	3
"	West Feliciana,	2
"	East do	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
Total,		97

Mr. BENJAMIN, remarked that the motion made by Mr. Miles Taylor, is the first in order, and if the house will act on it he has no objection, but he thinks the position of the case is this: after that question shall have been decided, as the house previously refused to lay his project on the table, if Mr. Taylor's motion be lost he shall move to lay the substitute offered by the delegate from Ouachita on the table.

The PRESIDENT decided that Mr. Taylor's amendment to Mr. Downs' project was in order.

Mr. CLAIBORNE called the attention of members to the concessions already made by the city to the country. We concede to you your own basis of representation, provided you make it operate equally. The question now to settle is, whether the city is to be restricted in her just proportion of representation or not, in the popular branch of the legislature; the senate is clearly the conservative branch, where (if any where,) restriction should be placed on representation. But if you restrain us in the lower house, in addition to the restriction you put upon us in the senate, why then we can carry the spirit of compromise no further, and being overpowered by numerical force, we shall have but one course left, and that is, to vacate our seats as members of this Convention.

Mr. RATLIFF believing that the motion made by the delegate from Assumption (Mr. Taylor) will have the effect to firmly establish the electoral basis, and as he (Mr. R.) wants no restriction, except in self-defence, he shall support the motion to strike out.

Mr. DOWNS: This is the first time that the question has come directly before the Convention, whether or not the city of New Orleans shall be restricted in her representation in the house of representatives, and before the vote is taken, he (Mr. D.) desires to give a brief history of what has been done heretofore on the subject, in committee; and to offer some few observations to the attention of the Convention. The idea of restricting the city in her representation, originated in the committee with the honorable delegate from East Feliciana (Mr. Saunders.) He proposed that the city should be restricted to one-sixth of the representation; others proposed one-fifth; and one of the members of the committee objected to all restriction, while the honorable delegate from East Feliciana insisted that to restrict her to one-sixth of the representation was not too much; but as a measure of compromise one-fifth was the proportion which it was finally agreed upon she should be allowed as her representation in the house of representatives. It now appears, since the report has been made, that New Orleans objects to any restriction whatever, and, in consequence, we have listened day after day to a very lengthy and excited debate. It was to allay this excitement, and to meet the question in a spirit of compromise, that he, (Mr. Downs) as had two other delegates, submitted to the Convention the project which

he had done. It is provided therein that the city shall always be entitled to twenty representatives, but never to any more; it is further provided that the lower house shall be composed of not less than seventy nor more than one hundred members.

The debate, however, continued with the same spirit, in the course of which the delegate from New Orleans himself (Mr. Benjamin,) admitted that some restriction was necessary upon the representation of the city, in consequence of the concentration of her interest, giving to her greater power than numerically appeared. To make his substitute agreeable to New Orleans, on that admitted principle, that she should be restricted 1-5th of her full representation, on the basis agreed upon, he (Mr. Downs) submitted another one, which amounted to curtailing her just one-fifth, and that proposition is the one now under discussion. But it seems that did not satisfy them, and the following day one of her delegates (Mr. Benjamin,) introduced a project based on total population, and called that a compromise; a very extraordinary one indeed, when it is remembered that when that basis was submitted to the Convention, seventeen could only be found to vote for it, while forty voted against it. The delegate from New Orleans (Mr. Benjamin) calls that a very reasonable proposition; but he (Mr. Downs) desires to call the attention to the fact, that under his (Mr. B.'s) proposal, New Orleans will be entitled to a greater representation than she would be under any other basis—larger than she would have been under the federal basis. Could, then, the country members who feel the necessity that exists to put some restriction on the city, accept that proposal, which, instead of restricting, increased her power? Long discussions took place, and it seemed to be generally conceded that New Orleans should be entitled to her fair representation, which was her just proportion, on the electoral basis, less one-fifth. This, he thought, was a reasonable deduction; he (Mr. Downs) has changed his ground frequently to meet them; three times has he retreated from his first positions; can they ask for further receding? He cannot conceive they ought to; he has studied earnestly to make the substitute now under consideration agreeable to all. He is now somewhat inclined to think, however, that all his concessions only excite more and more opposition. He brought his mild and conciliatory proposition yesterday, thinking that it would be surely satisfactory; but it appears to be as little in favor as any of them. But the city delegates must not think that we are to keep receding for ever, and give up every thing; we have already yielded a great deal to them; but if they are now to come to us and say we must have it all as we want, they must not be surprised, if he among others, takes the studs and stops just where he is. All compromises they proposed are all on one side—none on the other. He understands the delegate from New Orleans (Mr. Marigny) to say, that the removal of the seat of government was a kind of compromise, and that in consequence, it was tacitly admitted that the city should not be restricted in her representation. He (Mr. Downs) did not hear the arguments that were advanced when that question was discussed; but he remembers that coming into the hall, while the vote was being taken; he voted against the removal, because when the resolution was read to him, he saw at once that it was no concession on the part of the city. He may be wrong in the view took of it he hastily; but as he understands it, it provides that the legislature shall pass an act in future. You can't compel them to do that; the idea is futile. If that act were certain, it might have at least the semblance of concession; but they have only left it to the legislature to vote on this matter, and that may depend upon the very vote which we are now about to settle. If the resolution had said that Baton Rouge, or any other place out of the city, should be the spot where alone the seat of government could be placed, he might regard it as a concession, but as it is, it amounts to nothing at all. Throughout the history of Louisiana, she has never been entitled to more than one-sixth, and now we propose to give her full representation in the electoral basis less, one-fifth. There are many of the country members who think we have already acceded too much in going that far; but he warns those members that if the motion to strike out, prevail, it will be saying in so many words, that hereafter New Orleans is not to have any restriction whatever imposed on her in her representation. He therefore hopes the motion to strike out

will not prevail; amend it if you will, and he may, and will doubtless, acquiesce; but do not strike it out. He thinks the principle is a good one, and is more favorable to New Orleans than any plan that has yet been proposed on the basis agreed to by this Convention.

[Mr. PORTER here addressed the Convention at some length, in support of the proposition offered by Mr. Downs. His remarks having been handed him for revision, were not returned in time for publication.]

Mr. KENNER felt some embarrassment in approaching this subject. But that should not deter him from explaining his reasons for the vote he should give. The silver-headed gentleman who last addressed this Convention, who has shown such a depth of research, and who has quoted to us parts of so many constitutions, which he considers germain to the question now before us, himself admitted his embarrassment, how much more so, ought he (Mr. K.) to feel, who has not gone into that elaborate study. He (Mr. Kenner) will sustain the motion to strike out, for the arguments of the delegate from Caddo have failed to carry conviction to his mind. He (Mr. K.) has listened attentively to all that has been advanced on the subject under discussion, and he can only discover a single point on which he conceives the friends of the report can at all rely; and that is, the danger to the country from the concentration of the city vote. Now let us see what is to be dreaded from this overshadowing influence, that is to destroy the country. It is asserted that New Orleans is in a small compass, and can be brought together in a mass to affect the interests of the State at large. Now how can they show the danger to exist? They have given no proofs, they have cited no parallel case in this, or any other country. What remedy do they propose for the evil which they say will ensue if New Orleans be not restricted? Why, they say that she must be shorn of one-fifth of that representation which she is justly entitled to, under the basis which we have established. Now the city would be entitled on a fair division, to twenty-five members. Suppose you take off five, and leave as you do twenty. Would that remedy the evil you profess to dread—the power and force of concentration? If it will, you have at least failed to show it, for to his (Mr. K.'s) mind, twenty men united on any plan or project, can and will accomplish as much as twenty-five. If you desire to weaken that power of concentration, the only way to do it will be to take the plan proposed by the delegate from Assumption, and that is, to cut up the representation into a certain number of electoral districts where the interests are not identical; it is the only fair and legitimate way of accomplishing it.

How much better would it be for those who are opposing New Orleans, and are trying to deprive her of her just rights, to come out at once and say that they do not want New Orleans to have as much power and influence as the country has. There is another consideration which should be called to our attention in the settlement of this question. We have decided that we will remove the seat of government from New Orleans, and as a matter of course, that so much dreaded lobby influence ascribed to the city is also removed, and therefore we shall not have so much to fear from the acts of our legislature as formerly. There will be no more fine dinners, no more fine wines, that can be brought to bear upon a question before the legislature. He, however, does not agree with the delegate from Plaquemines, (Mr. Leonard) that the members of previous legislatures have been affected by means of the stomach. At any rate the seat of government is removed, and we shall have no more of the hubbub and confusion we have been wont to see, by the greedy applicants to have this or that bill passed, as formerly, and who then kept up such a clamor that you could hardly hear yourself speak. He (Mr. Kenner) feels bound to say something in reply to the delegate from Ouachita, (Mr. Downs) as to the city never having been entitled heretofore to more than one-sixth, and even in many cases to one-seventh. The constitution of 1812 placed both city and country on precisely the same footing, and guaranteed equal rights to both under it. The legislature gave to her that which she was justly entitled to at the time, taking into view the number of members in the house, and the basis agreed upon to qualify a man to vote, and they could have made no other apportionment without

depriving the other parishes of rights that were equally guaranteed under that constitution.

He hopes therefore, he has explained sufficiently the reasons that govern him.

Mr. Downs remarked that he did not say there was a special provision that she should not have more than one-sixth.

Mr. Porter remarked that he had heard it argued out of doors, that by dividing the city into districts, we should divide the concentration we fear. But if we are to look to what passes in this hall for illustration, what do we find? Why, that whigs and democrats unite on any question that is to benefit the city. They divide on politics alone, and let the agricultural interest protect itself the best way it can.

The question was then taken on the motion of Mr. Taylor, of Assumption, to strike out the proviso in the first section of the amendment of Mr. Downs, which was as follows:

Provided, that at any future apportionment, the full representation of New Orleans, with its present limits, shall be reduced one-fifth, and that each parish shall have at least one representative.

The yeas and nays being called for, resulted as follows:

Messrs. Benjamin, Boudousquie, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Ledoux, Legendre, Leonard, Lewis, Marigny, Mazureau, Preston, Rathff, Roman, Roselius, St. Amand, Saunders, Sellers, Soulé, Taylor of Assumption, and Wadsworth—35 yeas; and

Messrs. Beatty, Bourg, Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Labauve, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Prudhomme, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wederstrandt, and Winder —32 nays; consequently said motion prevailed.

Mr. Taylor of Assumption, then offered the following proviso, viz:

Provided, that at each apportionment hereafter to be made of the representation in the house of representatives, that part of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into election districts in such manner that no one district shall elect more than two representatives.

Mr. Beatty moved to lay indefinitely on the table, the amendment and proviso, and the yeas and nays being called for, when

Mr. Downs remarked, that if the whole proviso be laid on the table, we shall have made no progress at all. He conceives there are two principles connected in the proviso—one of which has been accepted, the other rejected; but we have settled the basis of representation. And why then should we travel backwards? If the gentlemen want to disturb the basis, let them move a reconsideration, and then they will be able to arrive at their ends, if they can succeed in bringing back another basis to start upon; but no, they will not do that, because they know it will be decided in the same way. We have already been three weeks at work on this business, and he does hope we shall not undo all that we have heretofore done. The delegate from Lafourche (Mr. Beatty) ought at least to have told us what he intended to propose as a substitute to the one under consideration, before he proposed so unceremoniously to lay it on the table. He hopes they will proceed with his substitute.

Mr. Wadsworth then resumed the motion he had made about a week or two since, to reconsider the vote taken on the federal basis, which then resulted in its rejection—for he thinks after all, it is the only fair basis.

Mr. Conrad is of opinion that the motion made by the delegate from Lafourche (Mr. Beatty) is clearly the one in order. He does not understand what the honorable delegate from Ouachita (Mr. Downs) meant by saying that one principle in this proviso has been adopted. He does not by any means regard it in that light. We have been discussing the proposition of the delegate from New Orleans (Mr. Benjamin) which the delegate from Ouachita has in vain been endeavoring to put aside for his own.

Mr. Downs remarked that his project was first presented, and was therefore the first in order.

Mr. Conrad: If it be true that his substitute is the first in order for discussion, I can only say we have been out of order for

two weeks. I think Mr. Beatty's motion is most clearly in order, in any event, and that is to lay the project of the delegate from Ouachita on the table, for the purpose of taking up the other.

Mr. Benjamin remarked that the New Orleans delegation had agreed to take any basis that might be agreed upon, provided there was to be no restriction on the rights of the city after that basis was settled. But this substitute does restrict. After this Convention has fixed a basis, although less favorable than some others, to the city, and after they have also determined there shall be no restriction, he cannot hesitate which course to take—while he should prefer the amendment of the delegate from Assumption (Mr. Taylor) to the substitute of the delegate from Ouachita, (Mr. Downs) he should still be compelled to vote against it.

Mr. Taylor is yet clearly of opinion that the question now under consideration, is the substantial question before the house. A week ago last Monday, (said Mr. Taylor) the house voted on the basis; there were a variety of basis offered. "Total population" was one of those offered, but "qualification" was the one chosen. The proposition now before us of Mr. Downs, contains nothing at war with that basis, but the substitute offered by Mr. Benjamin embodies a proposition which has been negatived by the house; and if we proceed to discuss the project of Mr. Benjamin, we shall thereby negative one of the pinciples we have already adopted. The only matter he humbly conceives before the Convention on which they can properly act, is the apportionment of the State on the basis of qualified electors. The only way we could properly proceed with the substitute of Mr. Benjamin, would be by moving a reconsideration, and without it were carried it could not clearly be in order for us to discuss what we have already determined on.

Mr. Dunn thinks that in proceeding with the substitute we have now under consideration, we are entirely out of order. When the delegate from Ouachita (Mr. Downs) first introduced his project, he raised that question, because it embraced a provision which this house had previously rejected, viz: that each parish should have at least one representative, without regard to population.

Mr. Benjamin replied to the delegate from Assumption, that there is this difference, when he (Mr. B.) proposed his substitute to this house as a compromise, a motion was made to lay it on the table, which motion failed. The Convention evidently then kept it before them for further consideration; and now, when a motion to lay the substitute of Mr. Downs on the table is made, it is called out of order.

Mr. Downs has not raised it as a question of order, but merely to show the inexpediency and impropriety of it. The Convention determined by a vote of 28 to 18, to fix the basis on qualified electors, and therefore he thinks it better to go on as we are going, and that if we do not we shall only be retrogading.

The President desired to call the attention of the members of the Convention to the fact, that to lay the substitute on the table, amounted to a rejection of the whole of it.

Mr. Ratliff wished to know if he was in order in moving to reconsider his vote, for he began to see pretty plainly that the city wanted the lion's share.

Mr. Wadsworth was clearly in favor of the proviso offered by the delegate from Assumption, as the only one which, while allowing New Orleans her fair share of representation according to any basis, still the country would be better protected from any thing like a concentrated vote when there would be such a variety of interests represented. He thinks it is fair for both sides.

Mr. Conrad, in reply to the delegate from West Feliciana, remarked that he had understood him to say, that the city wanted the lion's share—thereby saying that the basis claimed is fairer for the city than the one which is adopted. If the honorable delegate will take the trouble to re-examine his calculations he will find it is not so. Out of the whole population of the State, 250,000, there are 84,000 whites and free blacks, leaving 166,000 slaves—of which there are 25,000 in the city. Therefore the country could lose nothing on that score; and that was the reason why the delegate from Ouachita labored so industriously for many days to establish the federal basis. Did he not then urge it on the Convention as one of the means of restricting the city? Then the city objected, as now, to restriction of any kind. But if

you are determined to restrict us, at least don't do so in so many words. Take the whole population, if you choose, but do not restrict. He was astonished to find Mr. Ratliff in such an error. Now, thus matters stand between the country and city: the delegate from Ouachita says it is true you will restrict New Orleans, but then you will increase the influence of the adjacent parishes; but there again he is mistaken. The number of slaves in the first congressional district is 28,000, in the second 30,000, together 58,000. In the third district it is 58,000, equal to the other two; and in the fourth district it is 50,000, nearly equal to the first and second.

Now, then, how can the adjacent parishes be benefitted by the plan proposed by the delegate from Ouachita, for it appears that the third and fourth districts bear the proportion of two to one over the first and second districts. These are facts and figures, and yet they get up and tell us seriously that this is the most favorable project for New Orleans. Figures dont prove it, nor does the census. They are at war with all these declarations. He regards the proposition made by his colleague the fairest compromise that has been offered, and as such he shall sustain it; and he conceives the Convention in refusing to lay it on the table, have properly made it the order of the day, and public interet requires we should again take it into consideration. He voted to lay the substitute of Mr. Downs on the table, because he thought that of his colleague would fully meet the wishes of the Convention. He reconciled himself to it by thinking it was the best that could be got, and he is yet at a loss to know how those who voted for the federal basis could possibly refuse to take, as their next choice, the total population.

The question was then put on Mr. Beatty's motion to lay Mr. Taylor's proviso on the table indefinitely, and resulted as follows:

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Kenner, Labauve, Legendre, Marigny, Mazureau, Pugh, Roselius, St. Amand, Saunders and Sellers—27 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Ledeaux, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Preston, Prudhomme, Ratliff, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of Assumption, Voorhies, Waddill, Wadsworth and Wederstrandt—39 nays. So the motion did not prevail.

Mr. Ratliff moved the reconsideration of the vote given, to strike out the proviso in the amendment of Mr. Downs; and the yeas and nays being called for,

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Wederstrandt and Winder voted in the affirmative—31 yeas; and

Messrs. Beatty, Benjamin, Bourg, Briant, Carriere, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Leonard, Lewis, Marigny, Mazureau, Preston, Roman, Roselius, St. Amand, Sellers, Taylor of Assumption and Wadsworth voted in the negative—33 nays; consequently the motion was lost.

Mr. Taylor then moved that his proviso be adopted.

Mr. Claiborne hoped that the delegate from Assumption would withdraw the proviso, or at any rate amend it. If that be the price of the boon, which he has conferred upon the city by aiding in removing the restriction on her rights, the boon itself will not be very acceptable to the city. He would say to that gentleman, that if it be divided into twelve districts, it is very possible people might not be able to get suitable persons, to their minds at least, to serve them in such a narrow compass as one-twelfth of the city. Why separate the city at all? and if you do, why divide the municipalities? He should move to lay the whole subject on the table indefinitely.

Mr. Tayror was desirous of giving some of the reasons that induced him to propose this amendment. The delegate from New Orleans thinks he (Mr. T.) had

acted upon the principle of extending a boon to the city of New Orleans in the vote he had given not to restrict the city; nothing was further from his mind; he acted in accordance with what he believed to be right, and from a sense of justice. He designed to do right, and did what he conceived to be so. But he made his proposition because he thought it proper and just, and he believes it will lead to happy consequences. Gentlemen seem to think there is great injustice in it, but he does not; but, on the other hand, that there is propriety in it, and that it will result in good. As it now stands, no matter what the divisions of interest may be, the smallest majorities may carry the whole number, without regard to those interests, and it is his design to put all the population on the same footing. If, for instance, one-third of the population of Louisiana, (because that is about the number of the population of New Orleans,) were to elect by general ticket one third of the representatives, the smallest majority would then determine the politics of that representation, and they might thereby determine the political complection of the State. In such a way those whom the people want are passed over, and party hacks substituted in their place. Besides, if we give representation to the people themselves, it will prevent combinations from being formed that shall shut out and exclude any particular portion of the city, as was the case at the last election, when the second municipality was entirely excluded from a participation even in our very debates. He has noted the remarks which have been made, as to the municipalities themselves being division enough, but as he thinks this is better, he adheres to it, for he wants no distinction made between citizens, and it is that same principle that induced him to vote against restricting the city.

Mr. Beatty remarked, that if we were going to divide the city into districts, we had better do it here at once, because if we left it to the legislature, then it is clear they would have it in their power to lay off the districts in such a way as to give the vote to one or other of the political parties, as might best suit them.

Mr. Conrad rose to address the house, but was momentarily interrupted by the call of "question," which however, subsiding, he proceeded.

The avowed object, Mr. President, it seems is, to limit the power of the city; but is it right to gerrymander it to suit party purposes, as might be done, and no doubt would be? The gentleman from Assumption says, that his vote on the question of restriction was no boon, but justice. Admitted—but has he not now carried that justice too far; has he not made them representatives for wards? It is a matter of experience how difficult it is to get men to serve in the council, even who are capable. He would much prefer municipalities to the mode proposed. The report say , no municipality shall send more than a parish. He considers the legislature a dangerous place to refer this division to; it will always be a fruitful source of strife, and will give them every opportunity for legerdemain and gerrymandering. It would be better done here, if it is to be done; but he thinks it is enough to divide it into municipalities, and if needs be, divide them into two districts each.

Mr. Claiborne, who joins Mr. Conrad in his opinions and fears, would submit to the house, while he called their attention to and particularly to the attention of the delegate from Assumption, a substitute to the proviso of that gentleman—*it was to divide the representation into municipalities, in such a way that neither could have less than one-fourth of the whole representation.* Each municipality has a separate and distinct line, and interest, not however in a general way as to the latter, but he (Mr. Claiborne) thinks it is the only reasonable way of dividing the representation.

Mr. Wadsworth is surprised to find gentlemen so greedy to control the interests of the whole State, as they seem to be—to his mind they want to concentrate the vote of New Orleans so as to control the vote of the State. The country is divided, then why not the city? Has any man ever dreamt of such a thing as the whole country sending their members here, perhaps, by a majority of one vote? New Orleans is bound eventually to govern the whole State, if we do not watch her political power with argus eyes. That he (Mr.W.) firmly believes, for she is not alone depending on Louisiana for her prosperity and

greatness; the wealth of the whole western States is poured into her lap, and she is supported by her commerce, which extends throughout the world.

We all know there was a Tyre, a Rome, a Carthage, and an Athens, which in their days attracted the attention of the world; amongst them let us select Rome to carry out my argument. She controlled the world, and Athens handed down to us that mind which now controls our actions. Let them build up their Cincinnati, St. Louis, and all their other large western cities—but they have all to come here at last, and there is no telling to what power New Orleans may not arrive ere a century rolls around.

He (Mr. Wadsworth) cannot but think there is another question which ought to be taken into consideration by the gentlemen who object to the division, and that is, that it is to the interest of the city herself that she should be divived, for if not, the hour is not far distant when the second municipality will control the political power of New Orleans. There you find the enterprize, the intelligence of her citizens, making rapid strides, and distancing her sisters. This then is a thing to be thought of, and reflected upon by all. All we want is to divide the vote in such a way that by one vote in the city, the State of Louisiana shall not be governed by New Orleans.

The great idea here is, that New Orleans *will* control; this is the only way it can be prevented, and therefore he shall support it.

Mr. Roselius has felt great solicitude that justice should be done to the city; and if we are to judge from the vote of this morning, the question may be considered as settled, that the majority of this Convention are opposed to imposing a restriction upon her. He (Mr. Roselius) rejoices at the result; for all she asks is justice. She does not want to control the interests of the State; all she asks is that the same basis should be applied to her as to the other portion of it. He feared that New Orleans was to be placed under a ban, but he is indeed happy to know that the idea is abandoned, and that she is not now to be put in shackles.

The result is honorable to this Convention as a body; and he (Mr. R.) is willing to make any concession to accomplish that great and just end. He does not care into how many parts the representation is cut up, provided they do not divide it into too small districts—that is a matter of minor importance, compared with the grand principle of restriction.

Mr. Claiborne felt convinced that New Orleans would have preferred some slight restriction, in preference to this mode of dividing us into so many districts. Why, said the gentleman from Plaquemies, (Mr. Wadsworth,) should not the city be divided into districts, as well as the country into parishes? If he thinks we have any personal political interests in view, in maintaining that the city ought not to be divided, he is much mistaken; for his part he repels it. He only looks to the general interests of his constituents. *He* did not come here to seek pupularity; but he came with the determination, to the best of his humble ability, to protect the rights of those who sent him.

Mr. Saunders thinks in sustaining this motion we are going to much into detail. Who can say what may be the condition of the city even gfty years hence? The objection to it is, that if the division to be made produced a bad or pernicious effect, it is without a remedy; and therefore he shall not support the motion.

Mr. Claiborne then withdrew his substitute to the motion made by Mr. Taylor, and seconded Mr. Beatty's motion to lay the proviso on the table indefinitely, and called for the yeas and nays, which resulted as follows: Yeas 26, Nays 36.

And on motion, the Convention adjourned till to-morrow at 10 o'clock, a. m.

Saturday, March 15, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. Pritchard.

Mr. Beatty, on behalf of the special committee, to whom were assigned the duty of making certain enquiries in relation to the delay in the publication of the reports of debates, presented a report accompanied by a resolution requiring the reporters in English to deliver their reports on the day following the proceedings in the Convention. The resolution was modified on motion of Mr. Dunn, and was adopted.

ORDER OF THE DAY.

The Convention resumed the considera-

tion of the subject of apportionment; being the proposition of Mr. Miles Taylor to divide the city of New Orleans into representative districts.

Mr. Benjamin desired a temporary postponement of this question. He was about preparing a substitute, which he designed offering; but before submitting it to the consideration of the Convention, he wished to advise with his colleagues from the city. He wished it to be understood, inasmuch as the country appeared to wish it, that he did not intend to oppose the districting of the city. All that he objected to was, that the legislature should be empowered with control over the formation of these districts. He wished them to be placed beyond the power of the legislature; to be definitely settled in the constitution. He would propose in his proposition, that the three municipalities should be divided each into two representative district: to be represented in the ratio of electors as determined upon by the Convention. He would, therefore, renew his request, that the subject be laid over for the present.

Mr. Downs was opposed to any further delays. This subject had monopolized a great portion of the time of the Convention. For the last three days it has been discussed; it has been turned into every form and shape. This is the last day of the week: if we defer it until Monday, it is most likely it will consume the whole week. The city ought to be satisfied, inasmuch as, notwithstanding all the arguments that have been adduced, showing the necessity of restraining her influence within such reasonable limits as would give some gurantees to the country. She has succeeded in carrying her point, and is to have a full representation. What more can she possibly desire? The only guarantee that the country now asks, is, that her huge representation, totally disproportionate with the balance of the State, may be divided, in order to prevent the concentration of her vote. And yet it seems that even with this concession, she is not yet satisfied. When the subject of representation was before the committee at Jackson, a similar suggestion was made to divide the city into smaller representative districts than were offered by the existing local division into municipalities; but this was resisted by the Orleans delegation, and with some show of reason, on the ground that, inasmuch as the city was to be restricted, it was not just to restrict her further by dividing her into smaller districts. The committee under the circumstances assented. But now the whole matter is changed; she is to have a full delegation, and the only restriction to be imposed upon her, if restriction it can be called, is, that her delegation shall be divided so as to represent more immediately the various local districts and fractions of her population. I am indeed astonished that objection should be made to this reasonable provision on the part of her delegation. And if anything further were wanting to demonstrate the influence of the concentrated power of the city, we would find a striking illustration in the proceedings and debates upon this very question within the last three days! The delegation of the city consists only of eleven members in this house. Only one-seventh portion of the whole number of members; and yet we find that New Orleans has succeeded in every thing. If with so great an inferiority in numbers, she can carry her designs, what will be the result when she has one-half, or may control one-half of the members in the house of representatives? One fact to which I have alluded, is observable from the votes taken yesterday: and that is this, that wherever New Orleans is concerned, the carries along with her all the votes of the surrounding parishes. The division of the city into representative districts is asking but very little, for it will tend only, at best, partiality to effect the object of preventing the too great concentration of power in the city.

I trust, said Mr. Downs, that this matter will not be further procrastinated. The gentleman (Mr. Benjamin) it seems to me, can very well present his proposition now; it can be discussed, and he can explain it to his colleagues. If it be postponed, I shall move immediately to take up the report of the original committee upon apportionment, and from what country members have witnessed since yesterday, I am inclined to believe that the result will not be as favorable to the city as heretofore; and that the country will see the necessity for checking her power before it is too late.

Mr. Culbertson said he had not troubled the house with many remarks, because he believed there were others far more ca-

pable than he could pretend to be, to participate in the various discussions that had arisen upon this and similar questions. He did not believe it necessary, that because a man possessed the faculty of speaking he should make a speech merely to have the gratification of seeing it printed. The time of the Convention was too precious for any thing of that kind. And I doubt very much whether it should be indulged in, at the sacrifice of important objects, for which this Convention was called.

I will take advantage of the present occasion, in the name of my constituents, to express the general satisfaction produced by the decisive vote taken yesterday; they were happy to find that the Convention were at length disposed to render full justice to the city, upon the sacred principle of equality and uniformity. This resolution was worthy of the purest principles of republicanism. It was a recognition of of those principles, well worthy of the fathers of our constitution. And if in their desire to protect the interests of the city, those members of the Orleans delegation that have addressed the house, have employed all their skill and all their talents to carry their point, I trust they may not incur the slightest reproach from the country delegation. The warmth of debate, and the vital importance of the subject, may have given rise to some pointed expressions; but this might very well happen from the peculiar character of the questions involved. It has manifested their fidelity to their duties. They are no more deserving of reproach than a servant, an indented apprentice would be for the scrupulous exactitude with which he may have fulfilled his duties to his master.

Since the country, through an apprehension of the concentrated power of the city, desire to lessen her influence by dividing her into districts, the city is disposed to concur; but all that she asks is, that if this division must needs be made, it shall not be so made as to be the cause of serious difficulties and of grave disorders. I trust that a reasonable delay will be granted, in order that the Orleans delegation may have the opportunity of conferring with one another as to some mode the least exceptionable of forming the various districts into which it is proposed to divide the city. The delegate from Ouachita (Mr. Downs) thinks we should economize our time. I think so too; not upon one abstract point, but a general rule; it will, in my opinion, be economizing our time to allow the city delegation time to make a definite proposition in which all may concur. This, I take it, is the intention of my colleague, Mr. Benjamin. The request is a reasonable one; and I trust it will be conceded.

Mr. Boudousquie proposed to lay the question relative to the apportionment of the city upon the table, and to take up that portion applicable to the country. The Orleans delegation, added Mr. B., desire to confer with one another, and with their constituents. By Monday they will be enabled to submit their labors to the Convention.

Mr. Beatty was opposed to delay—not because he was averse to the particular plan indicated by the gentleman (Mr. Benjamin) for districting the city, but because there was one point that ought, and should, be settled at once. He could not consent that the legislature should have the power to interfere and change the districts. He wished them to be established in the constitution permanently. If it were left to the legislature it would be subject to party action and party control. The number of districts in the city was less important than that they should be definitely formed as to their territorial limits. If you leave the question open for the future decision of the legislature, you expose it to the movements of party, and to political projects. I would rather see the city vote *en masse* than that it should be divided according to the ascendancy of the one or the other of the two great political parties. When the whigs would be in the ascendency, the districts would be so formed as to operate in their favor. When the democrats were in power the districting would be made so as to promote their objects. I trust that the Convention will provide against that result, by prescribing in the constitution the territorial extent of the districts, and their number. When the Convention have definitely settled that the districts formed in the city shall be permanent, then they may refer the details to the delegation from the city, in order that they may confer and agree upon the most acceptable number of districts into which the city shall be divided.

The question was taken upon Mr. Boudousquie's motion to lay the subject of apportionment, so far as it related to the city of New Orleans, upon the table, and it was carried in the affirmative.

Mr. Downs moved that the Convention take up the subject of apportionment, which had been laid upon the table subject to call, and called for the yeas and nays upon his motion.

Mr. Humble said he was convinced that the Convention would never get at the end of its business, if important questions were to be constantly postponed. He had witnessed with regret the disposition to procrastinate. In my young days, said Mr. Humble, I worked in a black-smith shop, and I think, to make use of a common expression, it is best to strike while the iron is hot.

The question was taken on Mr. Downs' motion, and the result was 28 yeas, and 26 nays.

The question recurring on the provision presented by Mr. Miles Taylor,

Mr. Benjamin offered the substitute to which he had referred at a previous stage of the proceedings.

Mr. Cade offered an amendment to the effect that none of the representative districts in the city be entitled to a greater number than allowed to the largest country parish.

Mr. Marigny considered that the amendment of the delegate from Lafayette, (Mr. Cade,) was contrary to the principle consecrated by the vote of yesterday; and that with a view of arresting the chimerical notions entertained in regard to the motives for asking a delay, he would feel himself under the necessity of voting for the proviso of the delegate from Lafourche, (Mr. Taylor.)

Mr. Claiborne would protest, by his vote, against any unjust and vexatious division of the city into representative districts. The request of my colleague (Mr. Benjamin) was a reasonable one. I have had no opportunity of conferring generally with my constituents, but those whom I have casually met are averse to such fractional divisions of this city. The facts speak for themselves. The city is already divided into municipalities, and each municipality is sub-divided into wards; so that in our elections, besides these divisions, we would have representative districts, senatorial districts and congressional districts—a mixture already sufficiently confusing; and if the city is again to be sub-divided into representat ve districts for the legislature, we shall be exposed to perpetual confusion and disorder. I would ask the country members how they would like to have their parishes cut up in a similar manner, with the view of breaking up a supposed amity of action? How would the delegates from St. Landry, for example, like to have their parish cut up into fragments, and that too, without giving them the opportunity of conferring with one another, or with their common constituents? They would be indignant, and with good reason, against such a proposition; and yet it is made for the city, and her delegation are expected to concur in it without consulting.

My colleague (Mr. Benjamin) has told you that he wished to have a little time to advise with the other members of the Orleans delegation. Yet this reasonable request has been refused. We are to be forced to acquiesce in any arbitrary division of the city, that it may please the majority in this house to entertain. We are forbidden to consult with our constituents. This is a mode of proceeding which I utterly condemn. And I shall feel under a necessity to vote, not only against the proposition of my colleague, (Mr. Benjamin) but also, under the circumstances, against the proposition of the delegate from Lafourche, (Mr. Taylor).

Mr. Wadsworth said that he was astonished at the vehement opposition of the gentleman that just resumed his seat, against the districting of the city. Notwithstanding the convincing and powerful arguments against the monopolizing weight of the city, she is to have her just share of representation upon the basis that has been adopted. Is not this sufficient to content her representatives? But must she be allowed to absorb and to swallow up the political power of the country. Let her delegation beware! No one anticipated that she would be allowed so large a number of members as she will get under the basis that has been adopted. Why, she will have from twenty to twenty-five representatives immediately, according to that basis! If she should force the members from the country to retrace their steps, the result

might not be so favorable to her. This desire to engross the greater proportion of the representation, reveals designs which should make the country particularly careful. It seems to be but natural that the city should be divided, in order that its localities and conflicting interests should be distinctly represented, and that the whole of her large delegation should not be in the position of voting as an unit upon all important questions.

Mr. Scott of Baton Rouge, concluded that the only reason urged for delay, was the desire of the Orleans delegation to consult with their constituents. What would the delegation from the city say if a country member, upon any important question, should rise and ask that it should be postponed, in order that he might consult his constituents? Why, the idea would be scouted at; and yet the Orleans delegation, who are in the very midst of their constituents, ask us to postpone this question, which has been under a protracted debate, in order that they may confer with their constituents. The circumstances that have marked our proceeding for the last few days, are sufficient to convince any one, that the city ought to be restricted.

Mr. Ratliff was in favor of the principle of the gentleman from Lafourche, (Mr. Taylor.) The gentleman's idea was a most excellent one, inasmuc ash it will give to the minority an opportunity of being heard in the legislature. And when that gentleman was thanked by the Orleans delegation for his magnanimity in throwing off all restriction from the city, he replied becomingly, that he had done nothing more than his duty, by rendering justice to the city. Thus it will be seen, that justice has been rendered by the country to the city, and it may be said, against the will of the city. Justice then, has been forced upon the city in one instance, and I predict it will be forced upon her in another. This proposition for dividing her into representative districts will be held as an act of justice by the minority. But one side of the question was heard by her delegation in the legislature. They were usually a l whigs, or all democrats. By this provision the minority will have an opportunity of being heard; and thus justice has been forced upon the city. I was very much delighted with the proposition of the delegate from Lafourche, (Mr. Taylor,) when he offered it yesterday. I make the almost blasphemous exclamation, that an angel from heaven could not have had a happier conception, nor offered a proposition more just or more rational.

Mr. Marigny moved that the subject of districting the city be referred to the Orleans delegation, in order that they may confer together, and report a plan for districting the city.

Mr. Downs moved to amend the motion of Mr. Marigny, by instructing the committee that the city should be divided into twelve representative districts.

Mr. Wadsworth thought that this number was too large; it would be attended with some inconvenience. In some of these little districts it would be difficult to find men of sufficient talents to depute to the legislature. That might perhaps be remedied by a provision allowing the voters to select a person to represent them, beyond their district. He could see no reasonable objection to this; for he held that if the people of one parish were disposed to select a person from another parish, to represent them for particular reasons, they should be left free to do so.

Mr. Voorhies was willing to accede to reducing the districts in the city to nine. He thought that number would be amply sufficient for the purpose designed, and he was willing to consult the convenience of the city as far as he could.

Mr. Brent proposed to place the number to be submitted to the committee at ten.

Mr. Downs acquiesced in this proposition.

Mr. Eustis said that the intention of the Convention in relation to the city, was but too apparent—the principle of action was upon the maxim, "divide and conquer;" the city was to be sacrificed in detail.

In vain does she protest, through her delegates, against the willful wrong that is about to be done her. Hence it would seem that after the country has forced justice upon her, to use the language of an honorable delegate, it is found strange that she does not display her gratitude, if not in words, at least by an humble submission to whatever the majority may be pleased to order. Ever since the unfortunate word compromise has been heard in this house, the fate of the city has appeared to me to

be irretrievably pronounced. The measure of her disasters are accomplished, and not only of her disasters, but those of the country. For let gentlemen from the country say what they may, the true interests of the city and country are one and the same. It should be borne in mind, that we are forming a constitution for the whole State—for the people of the city as well as for the people of the country, and that equal justice ought to be meted out to all. What will be the result of this proscriptive policy? You have already placed a ban upon the city, you have taken the seat of government from her limits, and have prescribed that it shall not be established within sixty miles thereof; and to complete that active proscription, you fix the sessions of the legislature in the month of January, at a period of the year when it will be excessively difficult for the city representation. And this is what is termed forcing justice upon the city!

But how does the second act of your generosity compare with the first? You now propose a territorial division of the city into minute particles, by which the city will lose her nationality, if I may be permitted to use that expression for the want of a better. Since the city must needs be divided, since she must be cut up, be it so! But at least do not insist upon such divisions as will be productive of the greatest disorder and confusion. There is not a member from the country that would not find it extremely harsh and unjust after the Convention had determined that the particular parish he represented, should be split into fragments for the purpose of dividing its representation, that the details should be settled without any reference to the delegation from the parish. Why act with this exclusive severity against the parish of Orleans? The city is already divided! division of municipalities—division of races—division of languages—division of manners and of prejudices—in a word, division in every thing. So much so, that one would seek in vain any other city where there exist greater and more radical differences; and where those differences are destined to exist for a longer period, and that independent of all law and of all constitutions! Divide the city since it is your pleasure, but have some regard for the interest and the convenience of its inhabitants! There are particular portions of the city where the population is dense; there are other portions where its population is sparse. According to your principle there would be a representative from the meat market, and a representative from the vegetable market. The delegate from Plaquemines (Mr. Wadsworth) thinks that the inconvenience of getting suitable persons to represent these various districts may be obviated by allowing latitude to the voters to choose any one residing in the parish to represent them. But the gentleman overlooks a fact that such a provision would be entirely useless. The feeling of locality is peculiarly strong, and no district would be willing to admit that there was no one sufficiently instructed to represent in the legislature. They would prefer electing one of their own citizens than to choose a citizen from a neighboring district, even although it were from the adjoining district.

I pray the Convention to consider the difficulties that would arise from districting the city into several small districts. Make the districts then as large as possible, consistent with your designs. These are not difficulties of a day; they are not momentary; they vary with circumstances, and a division that might answer well enough at one period, would be most unfortunate at another. The best plan, in my humble judgment, would be to adopt the provision of the gentleman from Lafourche,(Mr. Taylor) and leave with the legislature the discretion of varying the districts as circumstances may require. But if the city is to be divided, and not only divided, but the divisions to be permanent, make the evil as small as possible, and give the inhabitants of the city as little inconvenience as possible.

Mr. Brent could not refrain from expressing his astonishment at this cry of proscription from the city delegation. They have gone on triumphantly, and success upon one point has been only the prelude of success to another; and I may say, that they have obtained a controlling influence in this Convention. The expediency of restricting the city was concurred in by a large majority; but now, that principle of safety for the country has suddenly been conceded to the city. The interests of agriculture, the permanent interests of the

country, have been sacrificed to the interest of commerce; and yet those that have obtained the sacrifice have raised the cry of proscription! This reminds me of the pretext of the wolf reproaching the lamb for having troubled the limpidity of the stream! In the name of justice and of reason, what ground is there for opposing the division of the city into small districts. I can see no just reason for it. I consider it as the inevitable sequence of the principle of equality and uniformity, which has heretofore been so constantly invoked by the city delegation. Is it reasonable that the city should elect *en masse* her entire delegation, when the delegation from the country is distributed among innumerable parishes? That the delegation of the city should be returned in a solid column to the legislature by the majority of but a single vote, while the country parishes stand in an isolated position in reference to each other, the maxim to which the gentleman from New Orleans refers, has no application to the city, but it refers with striking effect to the position of the country. The city knows full well how to act upon it. Divide and conquer has been her principle of action towards the country. The country is divided, and hence the preponderating influence of the city which is united—which votes her entire strength as an unite to place the city upon an equality with the country. She ought to be divided, and her strength should be distributed among her various localities and divergent interests.

The vote of yesterday, abandoning the principle of confining the influence of the city to her just relative position, caused as much surprise on the part of the city delegation, as it did on the part of that portion of the country delegation that retained the stand originally assumed. In fact, it was something truly remarkable, that in a Convention principally composed of members representing the agricultural interest, such a concession should have been made! But the matter may be considered in the light of the thing adjudged, and there is no other alternative for those that concur with me in opinion that this judgment is both eroneous and unfortunate, but to submit.

The principle of equality and uniformity has been adopted, and all that we ask is, that the city shall conform to that principle. As for the argument of the gentleman from New Orleans, (Mr. Eustis) that there is a want of homogenity in the population of the city, I would answer, that it is with a view of representing these various interests that the division of the city into small representative districts is desirable, and that these local differences will in that way serve to equalize the representation between the city and country.

Mr. Claiborne would remark that the gentleman from Rapides (Mr. Brent) had argued the question as if the delegation from New Orleans had opposed the scheme for districting the city. The gentleman from Feliciana (Mr. Ratliff) had argued it as affording the minority in the city the opportunity of being heard, as if their voices had heretofore been suppressed. Neither of these positions were correct. The delegation from the city had alone contended that the districting of the city should not be made so as to create disorder and confusion. In reference to the second point, there was no foundation for the assertion of the delegate from Feliciana. The composition of the Orleans delegation in this body without going farther, proved it to be unfounded; the members representing the city were chosen irrespectively of party politics.—They were sustained and voted for by both whigs and democrats indiscriminately.

Mr. Benjamin proposed that the city should be divided into six elections districts, and that the formation of these districts should be referred to the city delegation.

Mr. Voorhies proposed that the representation from the city should be distributed among eight election districts, as follows: three representative districts for the First Municipality; three for the Second Municipality; and two for the Third Municipality.

Mr. Waddill moved that the further consideration of the question of apportionment, as it related to the city of New Orleans, be postponed until Monday; his motion was lost.

The question then recurred on the motion of Mr. Voorhies, to establish eight representative districts in the city, and it was carried in the affirmative by yeas 36, and nays 23.

Mr. Cade withdrew his motion, and the

resolution presented by Mr. Downs was adopted and referred to the Orleans delegation.

Mr. Beatty proposed to substitute sections ten and eleven of the second committee, to similar sections in the report of the majority of the committee on the legislative department.

Mr. Lewis proposed to amend the report further, and instead of requiring that new parishes should contain, instead of four hundred square miles, to require six hundred and twenty-five miles square. Mr. L. explained the necessity for this amendment. It was concurred in. The Convention then resumed the proposition of Mr. Beatty.

Mr. Benjamin remarked that there was a contrariety between the principle consecrated in section eleven in the report of the second committee and that part of the report of the majority of the first committee, which prescribed that each parish should have at least one representative; and that, therefore, he would move to strike out that clause entirely.

Mr. Downs replied that this clause was essential to insure representation to some of the old parishes whose population were quite small; as for the new parishes, for whom it might be thought that this principle had been invoked, they were increasing very fast in population, and would soon be entitled to a plurality in representation.

Mr. Benjamin thought that for the present, representation should be allowed to every parish. But some principle ought to be embodied in the constitution which would allow representation hereafter solely in reference to the principle of equality and uniformity, a settled basis; and if the parish fell below that number, should be merged with such neighboring parish as she should select, and conjointly, they should send a delegation upon the basis of the electoral number.

Mr. Downs thought that this question involved the acknowledgment or denial of the principle that each parish shall be entitled to one representative. The gentleman (Mr. Benjamin) is willing to concede the principle for the present. But to my mind there is no difference in conceding it now and conceding it hereafter. If the principle be good, it is good now, and is good hereafter. The intention of the gentleman is manifest; he wishes the city to get possession of the representatives of certain parishes as soon as it may appear that they shall fall beneath some increased electoral number, although they may in fact have increased in population: the same question is here at issue again, shall the city absorb the political power of the State?

Mr. Porter would ask the gentleman from New Orleans (Mr. Benjamin) whether his construction was this, that if the population diminished in proportion with its increase in another, or whether the increase or diminution should be counted from the present actual number. If the first was his construction, some of the old parishes would be exposed to the danger of losing their representation. In the second place, the new parishes had nothing to fear, for it was not presumable that the alluvial soil of the Mississippi would ever lose its settlers so fast as to convert any of them into rotten boroughs.

Mr. Benjamin said that the population of the State should remain stationary in the several parishes. We have decided that there shall be but one hundred members in the house of representatives; if hereafter the electoral number be placed at one thousand voters for each representative, how can it be expected that parishes having but three hundred and fifty voters shall be entitled to a distinct representative? If we admit this, then we are virtually introducing the rotten borough system, and we shall transfer the inequality of representation from the senate to the popular branch of the legislature.

Mr. C. M. Conrad was under the impression that this question had already been settled. The second committee upon the question of apportionment had reported, it would be remembered, a plan of repartition, by which that concession was made temporarily, so as to include the new parishes of the north-west. But upon apportionment being made upon the electoral number they would not be entitled to distinct representation, unless they reach that number. I was opposed at that time to this concession, and if I yield my assent to it now, it is only upon the ground that it is temporary, and as a portion of the compromise.

Of course I can never consent that such a clause should be obligatory hereafter. That would be falling into the disparities that have marked the existing constitution. The senatorial representation has been

very unequal; why has it been so? Because, notwithstanding the increase in certain portions of the State, the senatorial districts have invariably remained the same.

It would be a renewal of the rotten borough system. One of the causes for which this body is convened is to make a fairer apportionment in the senate. How can we, with that mission before us, seek to introduce the same inequalities in the house of representatives? It would be a sacrifice of principle.

The proposition of Mr. Benjamin was not adopted. Upon a call for the yeas and nays, the vote stood 24 yeas and 31 nays.

Mr. Beatty proposed the creation of a committee, composed of blank members, to be chosen from each congressional district, to whom shall be assigned the duty of verifying the calculations upon the provisional apportionment.

Mr. Downs maintained that the calculations and the tables reported by the committee were correct, and it was needless to refer them to a committee. They spoke for themselves.

Mr. Benjamin thought that there might be error, and it was better to refer.

Mr. E. M. Conrad was in favor of the reference, because members, in the uncertainty which basis would be adopted, had not examined and verified the calculations for themselves.

Mr. Voorhies was convinced that the calculations were sufficiently exact to justify us in proceeding. He had examined them some time ago, with a view of informing himself. Other members might have done the same. He hoped there would be no further procrastination.

Mr. Kenner inquired what were the calculations upon the table, by which Mr. Downs, the member from Ouachita, was governed.

Mr. Downs replied that he took the result of the Presidential elections in some particular sections of Louisiana; for instance, in the second municipality frauds may have been committed, but in the northwestern portion of the State, the commission of frauds had not been even alleged. The elections were properly conducted, and the number of voters was, on the whole, an accurate guide.

Mr. Kenner said he could not consent to adopt the electoral vote of 1844 as his guide. He considered that the Presidential election was one tissue of fraud. If our recent elections are to be assumed as a basis, why not take the elections in July for State officers. There was then an election for members of the house of representatives, members to the Convention, and in some districts members of the senate. It would be certainly a much fairer standard.

Mr. Wadsworth said that the gentleman from St. James (Mr. Kenner) was wrong in estimating the elections in July as affording a proper guide. In some of the parishes they might be so considered, but in his (Mr. Wadsworth's parish) it was not a fair guide. The voters there were not called out. There was no excitement. Mr. Slidell run for congress without opposition; so did Mr. White for the senate, and I had no competitor. This is apparent from the vote given. That parish is, I am convinced, capable of giving a much heavier vote. She did so at the last Presidential election. But it is said that frauds were committed at that election. About one hundred and fifty persons came from the city of New Orleans, upon the plea that they had been unable to vote in the city, and therefore were entitled to vote in the district; and they were allowed to vote. It is said that the election was conducted with great irregularity. But it was conducted under the influence of party. It was alone sufficient that a hand and two feet should approach the ballot box, in order to be allowed the sacred right of suffrage. According to that mode of receiving votes, I might have taken down a band of Irishmen or Germans, and their votes would have been received and counted. The privilege of suffrage is too important, and too essential to the well-being of our country, to be desecrated and abused. I am in favor of the federal basis of representation, but if you adopt the principle of electors, carry out that principle, and give to each parish the number of votes to which she is really entitled by the number of her electors. If the gentleman from St. James repudiates a reference to the number of votes cast in the Presidential election, because he may consider it not an accurate guide, I object to the election of July, so far as the parish of Plaquemines is concerned. I do not claim representation

for that parish upon the electoral vote of November, but I would claim it, and insist upon it as being a reference to a well authenticated list of the legal voters.

Whereupon the Convention adjourned over until Monday.

Monday, March 17, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer, by the Rev. Mr. Shaw.

Mr. Burton asked leave of absence for Mr. Penn, on account of sickness, which was accorded.

Mr. Cenas, in behalf of the committee appointed to divide the city of New Orleans into eight districts, offered a report to that effect. He remarked that it had been found extremely difficult to comply with the resolution of the Convention, and that it was almost impossible in doing it to render justice to several of the districts; for that reason they had recommended that the number be reduced to six instead of eight.

The following is the nearest approximation they can make to the instructions of the Convention to divide it into eight districts—in fact the only one which the committee would agree to:

The committee composed of the delegation of New Orleans, to whom was referred the project of a division of the city of New Orleans for the choice of representatives to the house of representatives, into eight districts, report—

That the division of the three municipalities into eight districts is inconvenient and difficult to be carried into effect, so as to secure a just and equal representation; and it is therefore recommended that the number of districts be reduced to six, each municipality being divided into two election districts.

The following division, although far from being satisfactory to the committee, is the only one, dividing the city into eight districts, upon which they have been able to agree, viz:

1st. First district—To extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, and thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the Bayou St. John, thence along the middle of said Bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district—To be composed of all that portion of the third municipality above the Pontchartrain rail road.

8th. Eighth district—To be composed of all that part of the third municipality below the Pontchartrain rail road.

After this report had been read,

Mr. Cenas moved that the same and the section submitted, be laid on the table, subject to call. He was anxious that the city delegation should be present when it was discussed, and he observed many of his colleagues were absent.

Mr. Downs assured the delegate from New Orleans that he did not wish to be discourteous, but he thinks it is perfectly unnecessary to postpone this matter any longer. It is true the business of the Convention should progress, and he (Mr. D.) wants to see it. It is too much to ask that we should be kept waiting forever.

The question to lay on the tabe was then put and lost.

Mr. Voorhies then moved to take up the section and report together.

Mr. Brent moved to adopt that part of the report dividing the city into eight districts; which was carried. He then moved to lay the balance of the report on the table indefinitely; which was also carried.

Mr. Splane then moved that the sergeant-at-arms be directed to make suitable arrangements for the reception of ladies who may desire to attend the deliberations of this Convention; which motion prevailed.

ORDER OF THE DAY.

The substitute of Mr. Downs to the project of Mr. Benjamin.

Mr. Mayo moved to amend that portion of the section, now the order of the day, which originally constituted the 10th section of the report made by the delegate from East Feliciana, (Judge Saunders) as chairman of the committee to apportion representation, and also all of the 11th section as it stood in said report to the word "in," in the 5th line, and to insert the following: "At the first regular session of the legislature, to be holden in the year 1847, and every tenth year thereafter, the legislature shall apportion the representation amongst the several parishes on the basis of qualified electors, to be determined by the number of legal votes polled in the several parishes at the general election for members to the general assembly, next preceding the session of the legislature; that is, to make the apportionment as above—*Provided*, that the apportionment be made."

Mr. Mayo stated that the only alteration proposed by the amendment, was to change the phraseology from federal population to qualified electors, which is the basis that has been adopted; and to change the mode of determining the number of electors upon which the apportionment is to be made, and to provide that instead of taking the census of voters as made by the census-taker, that the number of votes actually polled at the last preceding election shall be the guide. I think, sir, that it will be much safer to trust to the judges of election to decide who are the qualified electors, than to a single individual who may be appointed to take the census. The judges of the election will be sworn officers, and will make their decision at the elections in a public manner. They are always authorized to administer an oath to every person offering to vote, against whose vote a reasonable objection may be made, and a decision is made before the public. The census-taker on the contrary, is always liable to be operated upon by improper influences. The census is taken in private; is not accompanied by any of the solemnities that will necessarily guard the ballot boxes at the election. The decision in the event of entrusting the whole matter to the census taker, will be made by him, and not subject to revision by any other power or person. If, on the contrary, the legal votes polled be made the criterion, the whole matter, in case of fraud or error, will go before the legislature that is to make the apportionment, who can revise and correct any errors or frauds that may be found to have been committed. Under the amendment the same legislature will have to make the apportionment that would have to be made under the provision as it now stands in the section, providing that a census should be taken in the year 1846; no apportionment could be made under that census till the next year.

I repeat, therefore, that the only substantial alteration that is proposed by the amendment, is to leave the decision of the number of qualified voters to the judges of election, instead of leaving it to a census taker.

Mr. Benjamin rose to a point of order. He thinks the delegate from Catahoula (Mr. Mayo) is clearly out of order, inasmuch as the Convention had already adopted that part of the section on Saturday last.

Mr. Mayo differs with the member from New Orleans, and still considers he is in order. He regards the section as an important one, as it affects the correct phraseology of the section itself.

Mr. Downs thinks that it may be adopted, and should be for the sake of preserving consistency in the section.

The President decided that the clause was already adopted.

Mr. Mayo then moved a re-consideration of the vote taken on Saturday.

Mr. Wadsworth gave notice a few days ago that he should move a re-consideration of the vote taken on the federal basis. He found we are so much at loggerheads here, that he is now induced to call it up.

Mr. Dunn moved that to-day, at two o'clock, the vote be taken on Mr. Wadsworth's motion.

Mr. McRae thinks both these delegates are out of order, as one motion to reconsider had been made and was lost.

Mr. Voorhies agreed with Mr. McRae, that such was the fact.

The President says the whole discussion is out of order.

The question then recurred on the motion of the delegate from Catahoula, to reconsider the vote taken on Saturday, on

the following amendment offered by Mr. Beatty, viz:

Sec. 10. In the year ——, and every tenth year thereafter, a census shall be made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified electors in each parish.

Sec. 11. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the qualified electors as aforesaid, and in the manner following, to wit: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor—and any parish having a number of qualified voters less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative, and the legislature shall be incompetent to act on any other subject matter until the apportionment directed by this article shall have been made.

Mr. Sellers thinks that the votes taken at an election is no test of the number of qualified electors in a parish, because there may be many causes to keep people away from the polls, but that is no reason why a citizen should be deprived of any of his privileges in the right of representation. The only proper test is a correct census; and to that the legislature would have to resort to settle any disputed election they might have to decide on the electoral basis, or any other.

Mr. Beatty is of opinion that the delegate from Concordia (Mr. Sellers) is right; and if gentlemen will reflect at all on this subject, they cannot fail to arrive at the same conclusion, and that is, that the votes taken at an election are no test what persons are, or are not, qualified electors; for instance, an election takes place in a parish having one thousand qualified voters, but perhaps will not poll over one hundred, and why? because there is probably no opposition to any set of candidates who may be before the people, and therefore, all interest being lost in the election, the voters don't go near the polls; but that is no reason why they should be curtailed of any of the privileges properly belonging to them. He (Mr. Beatty) thinks also that such a system as is sought to be introduced by this amendment amounts to nothing more nor less than being a *premium upon fraud*, and that those who can smuggle through the largest number of voters, shall be entitled to the greatest share in the representation of the State.

Mr. Claiborne agrees with both the delegates from Concordia and Lafourche, (Messrs. Beatty and Sellars,) and he thinks the measure proposed in the amendment is the worst possible one that can be adopted; for, besides the reasons advanced by them, it is a matter of notoriety, that there is, on some occasions, in many of the parishes an excitement which brings out all the voters, while in a neighboring parish, no such cause existing, they do not one-half of them repair to the polls. Therefore that can be no criterion. Besides that, it must be borne in mind that it is opening the door to frauds of a stupendous character on the ballot box, which it is our duty most effectually to guard from pollution.

Mr. Preston differing from the delegate from New Orleans, (Mr. Claiborne) thinks that the motion or amendment offered by the delegate from Catahula (Mr. Mayo) is perfectly correct, and ought to be sustained; because he thinks judges of elections, regularly appointed and under oath, are more to be relied on than those who are taking the census of the State. Besides he thinks that those who do not attend at general elections should suffer in the representation of their parish; and while the judges are surrounded by close and vigilant party committees, the census-taker may, for the sake of his own party predilections, omit to take down any but those of his own way of thinking. The census taker may then stay at home and neglect his duties, without your having the power to check him in any way, or to urge him on to his work. While on the part of the judges of elections, there cannot be any danger of such neglect. But there is another question growing out of this that must not be lost sight of, viz: the expense of taking the census each year,

In short, a census never has been taken correctly in Louisiana yet. Apportionments *have* been made without regard to the census, and from the best information that can be laid before the legislature, they get the best criterion to go upon which they can. All census which we have had any thing to do with have been very defective; for these reasons he hopes the motion of the delegate from Catahula, (Mr. Mayo) will prevail.

Mr. Brent asked for information, in what way can a census be taken to settle the qualifications of a voter? Is the census-taker to submit them to the test of an oath? In his (Mr. Brent's) parish, Rapides, a full census never has been made.

Mr. Taylor dissents from the opinions advanced by the delegates from Rapides and Jefferson on this question, because they contend that when the year arrives that the legislature shall be called upon to apportion off the representation of the State, they are to be governed by the votes actually cast at the preceding election. If we should now establish such a principle, it will be in direct opposition to what we have already done, when we said that representation is based upon the number of "qualified electors." There is a material difference between qualified electors and those who vote; but why should we depart from the principle we have already laid down and take another rule, which is so very liable to be an improper and unjust one? No reason has yet been assigned for it, that has even the semblance of necessity for such a course. On the one side we have a rule established, which will (eventually at least, if not at the moment) secure to every citizen his just rights. On the other, you say that those rights may be taken away from him by the passing accident of the hour. Let us suppose that a tempest raged in one particular part of the State; in another, a pestilence; in another, some local indisposition on the part of the voters to attend the polls; in another, a sudden rise of water that should prevent men from going to vote however much they wanted to; and all these things have happened before, during our election. Why should we disfranchise those who might be thereby prevented from casting their suffrages in those very elections, of any of their political rights? Assuredly we ought not.

He, (Mr. Taylor) in seriously calling your attention to these things, is giving you no fancy sketch. An election held in New Orleans during the prevalence of an epidemic, or one held in Opelousas while such a fever was raging, as they have before been visited by, would certainly be no criterion as to the number of qualified electors in either place. If then the balance of the State should have polled a full vote, mark the injustice you are doing those who were unable to do so from causes beyond their control. Is it not equally clear, that when any candidate for the legislature is, as is often the case, so much esteemed and beloved by all parties and classes, that he has no opponent, that a small vote only will be cast in that parish; many of the qualified electors not deeming it requisite to attend the polls? And is it not equally clear that in every closely contested election every legal vote is put into the box; and as parties at such times are less scrupulous than at less excited moments, many illegal votes are forced into the box likewise? In the one case you diminish the representation of those who have chosen a good public servant, because there was no necessity for every man to attend the polls. And in the other, you increase the representation of those who may happen to have had an exciting election, and who have committed more or less frauds; for it is notorious, that some parishes have polled twice the number of votes on certain occasion than they were ever known to have qualified voters before, and evidently by introducing fraudulent votes; and yet these gentlemen say this is an admirable plan. They object to relying on the officers appointed to take the census, because they affirm that they will not do their duty. That is laying down premises which he (Mr. Taylor) cannot admit, for it is presumable, in the first place, that the officer will perform his duty; and in the second place, it is certain that he will have only one chance to neglect it, while people are as watchful of their rights as they are. The delegate from Rapides (Mr. Brent) asks how is a census-taker to know the voters? In cases of any doubt they should have the right to swear the parties; and further, the doubt may in every case be removed, if you have two in each district who will act together. The delegate from

Jefferson seems particularly to dread the expense; but that is expensive economy when we lavish money for the purpose of establishing an arbitrary rule, and hoard it up when it is wanted for a useful purpose.

Mr. Conrad remarked, that when this question was up some days ago, and when the taking of the census was adopted, he had then stated that injustice would be done in many cases; and if the taker of the census was either a careless man, or one liable to yield to improper influences, that some parishes might by chance be fairly returned, while the most of them would be returned unfairly. And yet, he (Mr. Conrad) thinks that we should not mend the matter by taking the vote taken previous to the apportionment as a guide of the number of qualified electors in each parish. The delegate from Assumption (Mr. Taylor) has clearly shewed not only the impracticability of it, but the manifest injustice there would be in adopting that plan. What course then shall we pursue between these two extremes; shall we take the one he (Mr. Conrad) has before suggested of taking the votes given at two successive elections, allowing the largest number of votes cast in each parish, as her number of qualified, or shall we establish a registry of the qualified electors? This last plan was considerably mooted here, before we knew that we were about to adopt the electoral basis. That being done, there cannot be any impropriety in renewing that plan as the least liable to objection; and certainly, nothing will be easier than to establish an office to be kept constantly open for the qualified electors to record their names. The argument used against it, when it was proposed before, was, that it would not answer as well as a census; because it would be an useless expense to keep such an office in the country parishes; for there, all the voters were known; but that it might do well enough in New Orleans. But he (Mr. Conrad) nevertheless, thinks that a registry law is a plan deserving of serious consideration.

Mr. Claiborne remarked, in reply to what had fallen from the honorable delegate from Jefferson (Mr. Preston) in relation to the danger to be apprehended from a census-taker lending himself to suit party purposes by alone taking down the names of those only who favored the party to which he was attached; that he conceived the argument would apply directly the reverse to what he had intended it to do. As on the contrary, if the party to which he belonged had the ascendancy in any particular parish, the census-taker would get down as many names as possible, in order to increase the representation of that parish, and thereby as much as possible to increase the political power of his party. Besides, if one census-taker cannot be trusted, let three be appointed; and let all three be made to swear to the whole work—then there would not likely to be either favoritism or neglect.

Mr. Brent moved to amend the motion of the delegate from Catahoula (Mr. Mayo) by substituting the words "the two last elections" instead of "the last election," which motion to amend was accepted by Mr Mayo. The question was then put on the motion of the delegate from Catahoula, to reconsider the vote of Saturday, and decided as follows:

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Voorhies, Waddill, Wadsworth, and Wederstrandt—26 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, King, Ledoux, Lewis, Marigny, Mazureau, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Trist, Winchester, and Winder—28 nays; consequently the motion was lost.

Mr. Wadsworth again called for a reconsideration of the vote on the federal basis, but withdrew it immediately.

Mr. Brent then moved the adoption of all the remainder of the substitute after the 41st line, apportioning all the other parishes except New Orleans.

Mr. Beatty opposed it, because he has serious objections to the apportionment submitted in the project before us. In the first place, it is unequal and unjust—and in the second, it is based on the votes given in 1844, when it is well known that a large quantity of illegal votes were polled in several of the parishes, and therefore

that is no criterion for us to rely upon. There can be no excuse for us to punish those who have not violated the law, for the purpose of rewarding those who have. It would be far better to postpone the apportionment in toto, until the census be taken in 1845. From what we can gather from the secretary of State's office, it is very likely that in three or four weeks we shall have sufficient returns made to warrant us in making, with the proof before us, a fair and equitable apportionment, and therefore he (Mr. Beatty) would suggest that the whole subject be laid on the table, subject to call.

That the Convention may know the grounds of my opposition to the report, I would state that I have carefully examined the census of 1841 with that of election returns of 1844, and I find such a material variance that I can hardly persuade myself it is possible; but taking the census of 1841 as being the most likely to be correct, I find that if we take the number of voters in St. Charles as the minimum to allow one representative: Jefferson will be entitled to two representatives instead of three, which is given to her in the project before us; and that Lafourche Interior is entitled to three instead of two. What then constitutes the great difference between Lafourche Interior and the other parishes who have suddenly swelled their numbers? Lafourche Interior has been increasing in population constantly and steadily. The real truth is, that the judges of the election have *there* scrupulously performed their duty according to law.

The parish of East Baton Rouge is allowed three, when she is only entitled to two; and Natchitoches is allowed four, although that parish has been several times divided since the census was taken, by which she was only entitled to two. And all the other parishes are to have at least one. For these reasons he asks the delay he does in this matter, in sufficiently good season before we adjourn to act with some data on which we can rely, and on which we can make a fair and just apportionment. He hopes, therefore, the motion of the delegate from Rapides (Mr. Brent) will not prevail; for if we are to continue this subject now, he shall move to take up the parishes regularly, one by one.

Mr. Wadsworth remarked that the only fair way to settle this question would be, first to establish the basis, and then give to each parish what she is justly entitled to, according to the certificate of the assessor of the parish, who is, by law, required to furnish it to the secretary of State. He feels convinced that it would operate unjustly to take the vote of 1844 for a guide in the present apportionment; for he knows, himself, that there were some 130 to 150 voters who went down to the parish of Plaquemines, from New Orleans, and who voted there.

The assessor's return is the nearest approach to truth we can come. He held in his hand the return of that officer, for the parish of Plaquemines, deposited in the secretary of State's office, on the 26th of February last, by which it appeared that that parish contained within her limits 926 legal voters. Mr. Moreau, the assessor, he knows well, and he knows him to be a man of probity and honor.

Mr. Conrad thinks it would be better to have a special committee appointed, to make the apportionment among the several parishes; and he trusts the delegate from Lafourche will accede to the suggestion. That committee will have an opportunity to examine all the returns that have, or will be shortly made, and will have many opportunities of arriving at facts, that a single individual could not.

Mr. Brent hoped the matter would not be procrastinated any more; we had it before us now for nearly five weeks, and it was truly time to do something with it. The project before us is as nearly correct as it is possible to come at. And as for the census of 1841, that is no way to be relied on, for it represents the parish of Rapides as containing 450 voters, when it is, to his knowledge, that there are over 1000. Some object to one starting point, some to another; we cannot expect that all should be satisfied, and he (Mr. Brent) thinks if we are not now prepared, we never shall be.

Mr. Conrad remarked that the only way of allaying discussion is the one he proposed, viz: to appoint a committee to get the proper information, and report to the Convention, while we proceed with some other subject.

Mr. Taylor agrees entirely with the delegate from New Orleans, and hopes the member from Lafourche will accept it as a

substitute for his motion. He thinks there is a peculiar propriety in it, for we have adopted, finally, the general principle on which representation is to be based, and it only now remains to make the calculation, to allow to each parish that to which she is fairly entitled. If the gentleman from Lafourche accepts, he will vote for the appointment of a committee.

Mr. Downs is totally opposed to it—it will do no good. It was referred to a committee at Jackson; that report was rejected; then to a congressional committee, then to a sub-committee, in order to get the information. The delegate from Lafourche, himself, made that report. The apportionment now proposed in the substitute is taken on the same figures as reported by him. Still we are in the dark. How long are we to postpone it? The subject has been before us more than two months, and every time we come near a settlement of it, off they fly on some new track. We had far better go home, and tell our constituents to send some body else here to do it, for we cannot.

We must take the best facts we can, if we are going to do any thing—we cannot do impossibilities. If we approximate as near to what is right, as the facts and figures warrant us in doing, no one can accuse us of injustice. Suppose some injustice may be done at first, a new apportionment will be made in 1846, and then all the faults will be before the legislature at their first session, who can make a more reasonable apportionment if this be found defective. The new constitution besides, is not likely to go into operation until after 1846.

It is necessary for us to provide some rule for our government. Shall we stay here two or three weeks waiting for information? For his part, he protests against delay. Among all the projects before us, this is the only one based on the principle we have adopted; and he thinks we are as well prepared now as we ever shall be. A motion to postpone is tantamount to saying that we cannot get along with it at all.

Mr. Voorhies agrees with the delegate from Ouachita, (Mr. Downs) and he thinks if that motion prevail we had better adjourn *sine die*.

Mr. Conrad remarked that the object was not delay, but dispatch. He asked the delegate from Ouachita (Mr. Downs) whether the apportionment submitted by him and now before the house, was all calculated from the table reported to us by the committee?

Mr. Downs: Yes, all but the parish of Plaquemines and the second municipality; he made these exceptions, and has always said so.

Mr. Mayo remarked that as some gentlemen had made the same inquiry on Saturday; it was surprising they had not taken the trouble to examine. To any one, conversant with figures, it would not take over an hour to examine the whole of it.

Mr. Beatty agrees as to the calculations. The only question is, whether the votes of 1844 are to be taken as the basis of calculation. He would test that, by moving to refer to a special committee composed of one member from each congressional district, that part of the section fixing the number of representatives to each parish; and the yeas and nays being called for—

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Hudspeth, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder, voted in the affirmative—25 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, King, Ledoux, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Voorhies, Waddill and Wederstrandt, voted in the negative—30 nays; the motion was lost.

The apportionment of the city of New Orleans was suspended for the consideration of the Orleans delegation.

Mr. Benjamin then moved a division of the question, so as to take the vote on each parish separately.

The secretary then read the following apportionments, which were adopted:

The Parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2

When he read the number allotted to Lafourche Interior as two—

Mr. Beatty moved to insert three instead of two, as she was fully entitled to that number on every principle of equality.

Mr. Guion seconds the motion of his colleauge, (Mr. Beatty.) He contends that great injustice is done to the parish of Lafourche Interior, in allowing her only two members, when she is clearly entitled to three. She has 800 voters under the present constitution, (usually polls about 700 votes) and when universal suffrage shall be in operation, she will give 1200. Why, then accord her but two, when Rapides is allowed four, when, from the admission of her own delegate, (Mr. Brent) there are not over, or but a fraction over 1000?

Mr. Brent replied that Rapides usually polled 900 votes. By referring to the statement he finds Lafourche Interior is not entitled to more than two on any basis.

Mr. Guion stated that it clearly showed the injustice of the project before us. As his colleague (Mr. Beatty) has stated, no one is allowed to vote in Lafourche Interior but those who are beyond dispute entitled to do so, under the strictest construction of the law. To so rigid a rule does the parish judge adhere, that he refused to suffer a citizen to vote who had removed out of that parish into the parish of Jefferson for a period of three months only; he was not entitled to vote in Jefferson, and like a good citizen, who wanted to do his duty to his country, he went to Lafourche, thinking he would of course have a right to vote there, but the judge refused him under the strict letter of the law, because he was not a citizen of the parish. Now, if he (Mr. Guion) is correctly informed, a kind of universal suffrage in the north-western parishes prevails; he knows that it was the case in Natchitoches, where the only question asked was, "are you a resident of Natchitoches?" and he presumes it is so, as he has heard it is in the other parishes.

The parish of Lafourche is clearly entitled to three members.

Mr. Dunn is disposed to vote for giving three members to the parish of Lafourche. She always had three, in a house of sixty members under the old constitution. By reference to the table before us, he finds that she has a free white population of 3986, which is as large a population as that of East Feliciana; she is allowed three, and he thinks but just to allow three also to Lafourche.

Mr. Guion wished to call the attention of the Convention to the fact, that Lafourche has a free white population of 3986, while Rapides has only 3243, nearly 800 difference; what justice is there in this? Where are the votes to come from, if they get them with a less population? The idea is preposterous.

Mr. Brent remarked that the project we are now discussing, is based on the vote of 1844; the electoral basis is what we have determined on, and from the shewing of the delegate from Lafourche himself, (Mr. Beatty) she is clearly not entitled to more than two representatives, on any basis, and yet she modestly claims three. It will be time enough to talk about Rapides, when it comes to her turn. On what do they found their pretensions?

Mr. Guion: On our population.

Mr. Brent: How can that be when Rapides gave nearly twice as many votes in 1844, as Lafourche?

Mr. Guion: The system of universal suffrage is prevalent in the north-west parishes.

Mr. Beatty: What he (Mr. B.) complained of was this, that on none of the basis were they willing to allow Lafourche more than two; but there would have been a vast difference between two out of seventy-seven and two out of ninety-seven. What is the reason why Natchitoches, which parish has been split up into several, should be entitled to four, when she had only two under the old apportionment. This is an unfair rule; for it is not shewn that her population is double that of Lafourche, and without people you cannot have voters. It only shows more clearly the injustice of taking the vote of 1844 as a proper basis to start from.

Mr. Downs thought it could be accounted for in this way: Lafourche Interior joins Terrebonne, and consequently when the large fraction over the 276 (the number fixed on) was in favor of Terrebonne more than the small one was in favor of Lafourche, it was thought more just to give it to Terrebonne; and moreover contiguous as they are, and with the same interests, he thought it the fairest way to settle it, being regarded almost as one.

Mr. GUION does not understand that logic. What has Lafourche to do with Terrebonne? She is entitled to two members, and she has got them; but that does not satisfy Lafourche Interior, who is deprived of one she is entitled.

The question was then taken on the motion offered by Mr. Beatty, to strike out "two" and insert "three," and resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Legendre, Lewis, McCallop, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder voted in the affirmative—32 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, Ledoux, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Voorhies, Waddill, and Wederstrandt, voted in the negative—26 nays; the motion was carried. So that the section now reads "the parish of Lafourche Interior shall be entitled to three members."

Mr. WADSWORTH moved for the reconsideration of the vote given on the adoption of the representation of the parish of Plaquemines. He said that the reason which induced him to make the motion, was, that upon mature reflection he found that the parish of Plaquemines was justly entitled to three representatives. When the paper was first handed to him which he read to this house, (it was while he was addressing the Convention) the number taken as the basis, 276, had not occurred to his mind; but the subsequent debate, and the manner in which the Convention had met the just claims of Lafourche Interior, had called his attention again to the certificate of the assessor of his parish. In that he says, under oath, that there are 926 legal voters in the parish of Plaquemines. I do not want (said Mr. Wadsworth) to go to the election of 1844 at all, but I refer to my proof, which is certified by the secretary of State; well then, having 926 voters in our parish, we are clearly entitled to three representatives. I ask for nothing but justice at your hands, and it is with the Convention to say whether my constituents are to get it.

The question was then put, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Briant, Carriere, Claiborne, Conrad of New Orleans, Culbertson, Derbes, Eustis, Guion, Ledoux, Legendre, Leonard, Marigny, Porche, Pugh, St. Amand, Taylor of Assumption, Trist, Waddill, Wadsworth and Winchester voted in the affirmative—23 yeas; and

Messrs. Benjamin, Brazeale, Brent, Burton, Cade, Chambliss, Conrad of Jefferson, Covillion, Downs, Dunn, Garrett, Hudspeth, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Mazureau, Peets, Porter, Prudhomme, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Voorhies and Wederstrandt voted in the negative—38 nays; said motion was therefore lost.

Mr. WADSWORTH remarked, that was making fish out of one and flesh out of another, with a vengeance; and he solemnly protests against such a flagrant act of injustice and oppression.

Mr. TAYLOR moved for the reconsideration of the vote giving two representatives to the parish of Assumption. Upon examining more clearly, he, as had the delegate from Plaquemines, discovered that the parish of Assumption was fairly entitled to three members. The population of Lafourche Interior was three thousand nine hundred and eighty-six, that of Assumption four thousand one hundred and toree, about one thousand more than that of Rapides. Upon every principle of justice then she is entitled to it.

Mr. BRENT replied, that he held to the basis which the Convention were acting upon, the vote of 1844, and therefore should oppose it.

The qustion was then put and resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Guion, Ledoux, Legendre, Leonard, Marigny, Mazureau, Pugh, Roman, St. Amand, Saunders, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder voted in the affirmative—27 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Voorhies, Waddill and Wederstrandt voted in the negative—31 nays; consequently said motion was lost.

The Convention then adopted the following representation.

For the parish of	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1

When the parish of East Baton Rouge was called, and three representatives were named,

Mr. Winchester moved to strike out "three" and insert "two."

Mr. Read claimed three upon every principle of fairness; he remarked that at the election in November they had polled seven hundred and twenty-six votes, and no frauds had been committed, as he was prepared to shew, by the certificate of Judge Tepin and L. C. Morris, now sheriff of the parish.

Mr. Wadsworth sees that this Convention is disposed to do great injustice to his parish—they forget right because they have might. He regards the whole matter as a struggle for political power, and the higher you go up the river the more liberal you become.

Mr. Benjamin wants to make one remark before he gives his vote. From the published statement he feels satisfied that East Baton Rouge is entitled to three representatives, and so feeling, no political loss or gain can induce him to vote against a measure which is so plainly and clearly just. He shall therefore vote against the motion to strike out.

Mr. Winchester was desirous of knowing why the Convention was clothed with such a power as it seems they were about to use. You refuse justice to the parish of Assumption, and grant it to East Baton Rouge. Certainly the one is as much entitled to it as the other.

Mr. Porter remarked that it would be singular indeed, if we were to allow three members to Lafourche Interior, with six hundred and twenty-five voters, and refuse the same number to East Baton Rouge, with seven hundred and twenty-six voters.

Mr. Taylor took this occasion to say, that although the parish of Assumption had been treated with great injustice, he should not be governed by any spirit of retaliation, but should the more tenaciously cling to a fair and just cause, and he should vote against striking out, firmly convinced that East Baton Rouge was entitled to three members.

The question was then put on Mr. Winchester's motion to strike out "three" and insert "two," and the yeas and nays being called for resulted as follows:

Messrs. Bourg, Conrad of Jefferson, Legendre, Leonard, Mazureau, Roman, St. Amand, Sellers and Winchester voted in the affirmative—9 yeas; and

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of New Orleans, Covillion, Culbertson, Derbes, Downs, Dunn, Garrett, Guion, Humble, Hynson, King, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porche, Porter, Prudhomme, Pugh, Read, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Winder voted in the negative—49 nays; consequently the motion was lost, and the representation of said parish of East Baton Rouge was fixed at three representatives.

On motion the representation of the parish of West Feliciana was fixed at two representatives.

On motion the representation of the parish of East Feliciana was fixed at three representatives.

On motion the representation of the parish of St. Helena was fixed at one representative.

The parish of Livingston to be entitled to one representative.

Mr. McRae moved to amend the representation of the parish of Livingston, by inserting "two" instead of "one" representative. The yeas and nays being called for,

Mr. McRae claimed two representatives as being justly due to Livingston; and when her vote of 1844 is considered, she is enti-

tled to it. The question was put, and the yeas and nays being called for, resulted as follows:

Messrs. Dunn, Garrett, Hudspeth, McRae, Porche and Saunders voted in the affirmative—6 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cenas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Guion, Humble, Hynson, King, Ledoux, Legendre, Leonard, Lewis, McCallop, Marigny, Mayo. Mazureau, Peets, Porter, Prudhomme, Pugh, Read, Roman, Roselius, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the negative—53 nays; consequently the motion was lost, and the representation of the parish of Livingston was fixed at one representative.

On motion the representation of the pariah of Washington was fixed at one representative.

Mr. Lewis then desired to call the attention of the Convention to the great injustice which had been done to the parish of Assumption, and moved to reconsider his vote on that question. He said it was passing strange that justice should be denied to a parish in her representation which had more population, and consequently more actual voters, than the parishes of Lafourche and East Baton Rouge; which, with less numbers, and less actual voters, the Convention had decided should be entitled to three votes each, while Assumption is cut down to two. There is a manifest injustice in it—and it is proper for us to reflect seriously before we let it go any further.

Mr. Porter said that Lafourche had got one too many, but we ought not to continue to do wrong, which we should do if we went on in this way; and more particularly when we have agreed to take the vote of 1844 as a basis, on which representation shall primarily be made.

Mr. Mayo is opposed to a reconsideration, unless when it is done we reconsider the vote allowing three members to Lafourche; for although he admits that it was wrong to give Lafourche three members, it must, nevertheless, be borne in mind that two wrongs do not make one right.

Mr. Lewis being reminded by Mr. Garrett that one reconsideration had already been had on this question, withdrew his motion.

The Convention then, on motion, proceeded to fix the representation of St. Tammany—it was accorded one vote.

The question then was on allowing the parish of Pointe Coupée one vote, but

Mr. Ledoux moved to amend the same by inserting "two" instead of "one" representative. He remarked that it was natural to suppose that a parish with two thousand of white population should be entitled to at least two representatiens; more particularly when the position of the inhabitants of the parish is taken into consideration, and how they are situated towards each other. The two thickly populated parts of the parish are the upper and the lower; the lower part is peopled entirely by the French, or creoles descended from them—the upper part by Americans. They seldom see each other, and have but little identity of interest or feeling. Taking then into view the peculiar geographical position of the parish, with a front on the Mississippi river eighty miles in length, and further, the well known fact that the Americans have no chance to be heard in the legislature while the interests of the lower part of the parish are antagonistical to theirs he thinks the Convention ought in justice, looking at the same time to the amount of her population, to allow her two representatives.

Mr. Brent opposed it, on the ground that we are proceeding on the electoral vote of 1844, and that she is not entitled to two representatives under that rule, having only polled three hundred and forty-nine votes.

Mr. Burton remarked, that if that motion prevails, he should also offer one to increase the representation for St. Helena and Livingston, for there were several French settlements in those parishes which came under the same rule.

The question was then put, and the yeas and nays being called for, resulted as follows:

Messrs. Dunn, Guion, Ledoux, Legendre, Marigny, Porche, Pugh, Saunders, Taylor

of Assumption and Wederstrandt voted in favor of said motion—10 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Garrett, Hudspeth, Humble, Hynson, King, Leonard, Lewis, McCallop, McRae, Mayo, Mazureau, Peets, Prudhomme, Read, Roman, Roselius, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Trist, Voorhies, Waddill, Winchester and Winder voted against the motion—47 nays; consequently the same was lost, and the representation of the said parish of Point Coupée was fixed at one representative

The representation of the following parishes were then fixed as follows:

The Parish of	Concordia,	1
"	Carroll,	1
"	Franklin,	1
"	St. Martin,	3
"	Lafayette,	2
"	Calcasieu,	1
"	Tensas,	1
"	Madison,	1
"	St. Mary,	2
"	Vermillion,	1
"	St. Landry,	5
"	Avoyelles,	2

The parish of Rapides being called, and four representatives being proposed to be allowed her—

Mr. Taylor moved to strike out the word "four" and insert "two."

Mr. Brent opposed the motion. He contends it would be unjust in the highest degree to deprive the parish of Rapides of the number of representatives which she is justly entitled to, under the basis established, and the rule adopted, to take the vote of 1844 as the ground-work of calculation. By reference to the table he finds that she is entitled to four representatives, for she has an excess over one-half of forty, while Baton Rouge has only an excess of thirty-seven over the half; if it be just to her, it is certainly also just to Rapides.

The basis fixed is the electoral—take that and the vote of 1844, and she is fully entitled to four representatives. But let us even take the census of 1841, or the votes of 1840; St. Landry had then but three, now she has five; St. Martin had but two, now she has three. What is fair for one is fair for both. We have heard of no charge of fraud in the vote of Rapides, and she cast one thousand and six votes in 1844. To deprive her then of her just rights under the basis and the rule of computation that we have established, would be unjust and tyranical.

Mr. Taylor said he agreed with him that that which was fair for one was fair for both; and this Convention had negatived the principle for which he was contending, viz: the computation of the vote of 1844.

He (Mr. Brent) says that we have established that as a rule, but he (Mr. Taylor) denies that the Convention has done any such thing; on the contrary, they have repudiated it. There is no more unjust principle that could be established. Adopt that, and you deprive honesty of its proper weight, and you hold out a premium on fraud. Although he will not say that he knows of any fraud in Rapides, still the principle which those gentlemen support, is a bad one. The only real evidence before this Convention is the United States census of 1840. In that we find the figures call for eight hundred and eighty-eight, over twenty-one years of age in Assumption a population much more stationary than Rapides has, and principally made up of old settlers, and more steady than they are in new countries; while in Rapides in 1840 the whole number of males did not exceed one thousand and two, over twenty years of age. If Assumption then is only entitled to two representatives, having a population over twenty-one years of age, by what rule of arithmetic can he make out that Rapides is entitled to four. In Rapides parish they voted some three or four more than they had in 1840, counting all the whites over twenty-one. There has been no more emigration to Rapides than there has been to Assumption, and if the census were taken to-morrow, our white population would fall but little, if any, short of theirs.

Why then, he (Mr. Taylor) asks; is it pretended that four representatives are asked for one thousand and two white male citizens over twenty years of age, when only two is allowed to eight hundred and eighty-eight?

For these reasons he presses his motion

to amend the substitute, but as he thinks it nothing but fair to allow her three representatives instead of two, as previously moved by him, he now moves to amend his first motion, and insert "three" instead of "four."

Mr. WADSWORTH complained bitterly as to the course of injustice pursued towards Plaquemines. He asked if it was not strange that his parish had polled one thousand and forty-four votes in November, and Rapides one thousand and six—should not she be allowed three, on the very principle that they themselves claim four?

He regards it as a species of greediness on their part, to ask four for themselves and refuse us three; and when you talk to them about it, they say, oh! we go upon principle! Peculiarly honest souls! They will do right until the shoe pinches them. Why should Rapides have more than Plaquemines asks; he (Mr. Wadsworth) does not suppose that *they* made any extraordinary efforts to keep out votes; and she has no right to ask four representatives while he holds the certificate that Plaquemines contains nine hundred and twenty-six voters, and is refused more than two.

Mr. BRENT contends that under any basis you please, except the total white population, she is entitled to four representatives. He asks nothing more for her than what she is entitled to. He contends that her total population is double that of Assumption. And why is it doubled. Were the votes polled in Rapides in 1844 fraudulent? You have nothing to offer in proof but your own mere supposition. He (Mr. Brent) presents facts against presumption; and as it would be unjust and unfair to reduce the number from four to three, he hopes the motion will not prevail.

The question was then put, and the yeas and nays being called for, resulted as follows: yeas 35, nays 24; consequently said motion was carried, and the parish of Rapides had three representatives allotted to her.

The next parish in order was Natchitoches, to whom the report gave four members.

Mr. GUION moved to strike out four and insert three. He remarked, we have no correct data here as to what her actual population is, because they have divided the parish since the last census into several parishes. But from the best information he can get she cannot be entitled to more than three representatives.

Mr. BRAZEALE thought that would be unjust, because it was to his knowledge, that she had a population of at least 14,000, and polled at the last election 1100 votes. Under the rule we have been acting on, she is clearly entitled to four representatives.

Mr. BRENT took the same view of the question as Mr. Brazeale, and contended she was entitled to four representatives, although he supposes they shall have to submit to whatever the Convention chooses to do.

Mr. CONRAD: Looking at the vote of Sabine (638) thought, that parish must contain more than one-third of what was formally Natchitoches; and if so, even under the rule which gentlemen press, she could not be entitled to more than three representatives.

Mr. VOORHIES thinks Mr. Conrad is in error, and that from the rule adopted of taking the vote of 1844, to start upon, she was entitled to four representatives.—When he voted before on the subject of Plaquemines, that question had not been raised.

The question was then put, on Mr. Guion's motion, and the yeas and nays being called for, resulted as follows: Yeas 33, and nays 26, so the motion was carried, and Natchitoches is entitled to three members.

Mr. BRENT gave notice that he should move a reconsideration of the vote allowing five members to St. Landry, to-morrow morning. And then, on motion, the Convention adjourned till to-morrow morning at 10 o'clock.

TUESDAY, March 18, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. BEATTY opened the proceedings with prayer.

Mr. VOORHIES presented the following as an additional provision to the section upon the qualifications of electors, inhibiting persons of unsound mind, paupers, non-commissioned officers in the service of the United States, soldiers, &c., from suffrage; which resolution was ordered to be printed.

Mr. READ offered a resolution requiring that the reports of the Convention be published in the "Jeffersonian Republican" daily, and instructing the committee on contingent expenses to allow such sum as may cover the expense incurred in bringing up the back reports.

The question was divided. The first resolution was lost—yeas 25, nays 33; as follows:

Messrs. Benjamin, Brazeale, Brent, Carriere, Cénas, Downs, Dunn, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Taylor of Assumption, Waddill and Wederstrandt—24 yeas; and

Messrs. Aubert, Beatty, Bourg, Briant, Burton, Cade, Chambliss, Claiborne, Conrad of Orleans, Covillion, Culbertson, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Porche, Pugh, Roman, St. Amand, Sellers, Stephens, Trist, Voorhies, Wadsworth and Winchester—30 nays.

The second branch of the resolution was then laid on the table.

Mr. GARRETT asked the use of the hall of the Convention to-morrow evening, to enable Mr. Hardinge to deliver a free lecture on Mnemotechny. Laid on the table.

The Convention then resumed the consideration of the apportionment bill. The following parishes were apportioned; Plaquemines 2, Caddo 1, De Soto 1, Ouachita 1, Morehouse 1, Union 1.

Mr. GARRETT moved to allow Union two representatives instead of one, as according to the votes polled at the last presidential election she was entitled to this number.

This was opposed by Messrs. Benjamin and Brent.

Mr. DOWNS explained that he had put Union down for one representative, because a portion of her voters had been recently taken from her by the creation of the new parish of Jackson, which latter parish had been allowed one member.

The question was taken on allowing Union two members, and Mr. Garrett called for the yeas and nays.

Messrs. Downs, Garrett, Humble and McCallop—4 yeas.

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McRae, Mayo, Mazureau, Peets, Porter, Prudhomme, Pugh, Read, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder—54 nays.

Mr. MILES TAYLOR moved to strike out "two," and insert "one."

Mr. MAYO contended that Catahoula had a large fixed population, and the increase for the last few years was greater than the number taken from the parish, in creating the parish of Franklin.

Mr. DOWNS sustained the claims of Catahoula to two representatives. She was undoubtedly entitled to that representation.

Mr. MILES TAYLOR withdrew his motion upon the statements of the two gentlemen.

Mr. BENJAMIN said, before acquiescing in the pretensions of Claiborne to two representatives, he would inquire of the delegate from that parish, whether a certain portion had not been cut off to form new parishes.

Mr. PEETS stated, that a small strip, containing only a few inhabitants, had been taken off to form the parish of Jackson. The increase in the parish of Claiborne of population, entitled her clearly to an additional representative.

Mr. DOWNS bore testimony from his knowledge of the parish, of the facts stated by Mr. Peets.

Two representatives were accorded to Claiborne.

Mr. WADSWORTH then moved to reconsider the vote on the representation of Plaquemines. Mr. Wadsworth contended, that according to a recent census taken by Mr. Moreau, assessor of the parish, there were nine hundred and twenty-six voters in Plaquemines, and that therefore taking the divisor of two hundred and seventy-six, which had been agreed upon, she was entitled to three representatives.

The motion to reconsider was carried.

Mr. VOORHIES moved to strike out "two," and insert "three."

The yeas and nays were called for.

Mr. WEDERSTRANDT stated, that yesterday he voted in error; having subsequently

examined the subject fully, he was happy that the opportunity was offered him to correct the error. He is always open to conviction, and ready to correct any error that he may have been led into, and cheerfully awards to Plaquemines her just representation.

Mr. C. M. Conrad went into an exposition of the reasons why he would vote in the negative. He said that according to the census of 1840, the parish of Plaquemines had an entire population of but thirteen hundred and fifty souls. It was impossible, within four years, for her population to increase so fast as to enable her to give nine hundred and twenty-six votes, as she did at the last presidential election. It was notorious that great frauds had been perpetrated upon the right of suffrage in that parish.

Mr. Wadsworth denied the right of the gentleman (Mr. Conrad) to argue the question after the call for the yeas and nays. But inasmuch as he had been permitted to do so, I will (said Mr. W.) reply to his mere inferences. The gentleman has no right to argue upon the returns of the election at the presidential campaign in the parish of Plaquemines. I know full well that it is subjected to the imputation of fraudulent voting. I do not ask the Convention to apportion the representation upon that result; but I come here armed with an official certificate from the assessor of taxes, a sworn officer of the State, and upon that certificate—not upon my own statements, although great weight has been attached to the statements of other gentlemen in reference to the qualified voters in their parish,—I ask that simple justice may be done to those I have the honor in part of representing. The gentleman (Mr. Conrad) may say what he pleases about frauds being perpetrated in Plaquemines, but all that he may say will not invalidate nor affect the weight of a certificate of an officer of the State under oath, who as the assessor of taxes, makes a statement that must be conclusive, as to the representation which is due to the parish of Plaquemines, in accordance with the basis adopted by the Convention.

The question was taken upon allowing Plaquemines three representatives, and the yeas and nays were called for.

Messrs. Brazeale, Brent, Briant, Burton, Carriere, Chambliss, Culbertson, Derbes, Downs, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, Peets, Porche, Porter, Prudhomme, Pugh, Read, W. B. Scott, T. W. Scott, T. B. Scott, Splane, M. Taylor, Trist, Voorhies, Waddill, Wadsworth and Wikoff—33 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Cade, Cenas, Claiborne, C. M. Conrad, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Roman, St. Amand, Sellers and Stephens—23 nays.

Mr. Brent said that he had given notice, that he would move for a reconsideration of the vote, according to the parish of St. Landry five representatives. I am satisfied however, Mr. President, (said he) from a subsequent examination, that her claim to five representatives, is as just as the claim of Rapides and Natchitoches to four representatives each; and as I design to press the claims of the two latter parishes, I will withdraw my motion to reconsider the vote upon the parish of St. Landry, and appeal to the course pursued towards that parish, for a reconsideration of the vote, awarding but three representatives to each of the parishes of Rapides and Natchitoches.

I trust that this Convention is not so far governed by prejudice, as to shut its eyes against the light of truth. For the parish which I in part represent, I have no favors to ask. I only demand for her strict and impartial justice. If principles have been established, if fixed rules have been adopted by this Convention, I have only to request, that her representation may be awarded to her in conformity with those rules. No matter what test may be applied, the parishes of Rapides and Natchitoches are more justly entitled to four representatives each, than is the parish of St. Landry to five representatives.

The census of 1840 informs us, that the white population of St. Landry and Calcasieu combined, amounts to eight thousand five hundred and twenty-eight souls. The white population of Rapides and Natchitoches amounts to ten thousand two hundred and eighty-five—there being an excess in favor of Rapides and Natchitoches of one thousand seven hundred and fifty-seven, the disproportion on the part of the entire

population, black and white, is still greater. The entire population of St. Landry and Calcasieu is seventeen thousand two hundred and ninety, whereas the entire population of Rapides and Natchitoches is twenty-eight thousand four hundred and eighty-two, the excess being in this instance eleven thousand one hundred and ninety-two. And yet this Convention has decided, that the two former parishes are to be equal in representation to the later—that is to say, six representatives have been allowed to St. Landry and Calcasieu, and only six to Rapides and Natchitoches. I would ask gentlemen if there is in this apportionment the remotest semblance of justice?

I have examined these statistics, not because we are to be governed in the apportionment of representation by the population, either black or white, or both combined, but because this Convention, so far, appears to have been governed by any other basis than that which has been established by the solemn vote of this body. I wish to show that, no matter what basis be determined on, an equal and uniform representation has not been awarded to the two parishes of Rapides and Natchitoches.

But let us proceed farther. The Convention has decided that the basis of representation shall be the qualified electors of the State. It has decided that two hundred and seventy-six shall be the representative number in the present apportionment; and that any parish having two hundred and seventy-six voters, shall be entitled to one representative. It has also further decided, that any parish having a fraction of one-half, over and above the representative number, shall be entitled to an additional representative. Accordingly, a few moments since, the parish of East Baton Rouge was allowed three members, she having polled seven hundred and twenty-four votes at the last presidential election, two representatives having been allowed to her for five hundred and fifty-two votes, the double of the representative number; and one representative for a fraction of one hundred and seventy-two votes over and above that number. It will be recollected that in making this apportionment, the presidential vote of 1844 was expressly referred to, and taken by general consent as the test, by which the number of voters should be ascertained. I now claim for the parishes of Rapides and Natchitoches the benefit of that rule, which was deliberately established in the case of East Baton Rouge.

Governed by this test, what will be the representation that should be awarded to the parish of Rapides? She polled at the presidential election of 1844, one thousand and five votes. The representative number of two hundred and seventy-six, will divide this three times, and leave a fraction of one hundred and seventy-eight, larger by six than the fraction upon which the parish of East Baton Rouge was allowed an additional representative. The claims of the parish of Natchitoches are still stronger—she polled eleven hundred and two votes. The representative number will divide this three times, and leave a fraction of two hundred and seventy-four votes. She lacks but two votes of having her full quota for four representatives; yet you have given the parish of East Baton Rouge an additional representative for a fraction of one hundred and seventy-two, and you have refused Rapides a representative for a fraction of one hundred and seventy-eight, and Natchitoches a representative for a fraction of two hundred and seventy-four. The Convention may call this equality and uniformity, but the people will hardly give it that designation.

But there is a still more striking and glaring inequality in the case of the Opelousas representation. The parishes of St. Landry and Calcasieu, polled together, at the last presidential election, one thousand five hundred and twenty-seven votes. The united vote of Rapides and Natchitoches was two thousand one hundred and seven, exceeding by five hundred and eighty, the vote of St. Landry and Calcasieu. Yet you have given six representatives to the two former parishes, and six to the two latter. The five hundred and eighty voters in Rapides and Natchitoches have no representative, although they have the full quota for two additional representatives, and a fraction of twenty-eight over and above. Now mark the injustice. The parish of Lafourche Interior, polling but six hundred and eight votes, twenty-eight votes more than the excedent of theRapides and Natchitoches vote, over the St. Landry vote, has been awarded three representatives. Five hundred and eighty voters

in Rapides and Natchitoches are not honored with a solitary representative; but six hundred and eight voters in Lafourche are worthy of three representatives. Of what material are the men of Lafourche made, that such an extraordinary preference should be manifested towards them by this Convention? What a mockery of that principle of equality, which has been assumed as the basis of representation; and what rank and flagrant injustice and oppression!

But it may be urged that the parish of Sabine once formed a portion of the parish of Natchitoches, and that two representatives have been granted to her. This is true, but how does it affect the case? Let us see. The parish of Sabine gave, at the last presidential election, six hundred and thirty-eight votes. If we add these to the two thousand one hundred and seven votes, cast by the parishes of Rapides and Natchitoches, we have a total of two thousand seven hundred and forty-five votes. The number of representatives awarded to these three parishes is eight, to-wit: two to Sabine, three to Rapides and three to Natchitoches. Let us now see what was the total number of votes cast in St. Landry, Calcasieu and Lafourche Interior, and compare them with the votes of the three parishes just named. Calcasieu and St. Landry gave one thousand five hundred and twenty-seven votes; Lafourche Interior six hundred and eight—making a total of two thousand one hundred and thirty-five. And yet to these two thousand one hundred and thirty-five voters, you have apportioned *nine* representatives, to-wit: five to St. Landry, one to Calcasieu and three to Lafourche; whereas you have conceded only *eight* representatives to two thousand seven hundred and forty-five voters. Is not this equality and uniformity with a vengeance? The men in Rapides, Natchitoches and Sabine appear not to have found as much favor in the eyes of this Convention as the men residing on Lafourche and in the prairies of Opelousas. Two thousand seven hundred and forty-five freemen in the valley of Red River, are only entitled to *eight* representatives; but a number of six hundred and ten less, in other quarters of the State, are entitled to *nine* representatives. The Louisiana Convention will truly make itself distinguished in the eyes of its constituency, for its impartiality, its justice, and its very correct and conscientious regard for the rights of others.

Sir, has reason lost its sway; have truth and justice been thrown to the winds; and will this Convention persist in inflicting a grievous wrong upon two of the sister parishes of this State? I ask gentlemen to pause and not consummate the foul injustice of this iniquitous apportionment.—You have made a donation, a free-will offering, of one representative to Lafourche, to which she is not entitled—for she has but a fraction of fifty-six, after giving her two members, and yet you deny Rapides a member for a fraction of one hundred and seventy-eight, and Natchitoches a member for a fraction of two hundred and seventy-four. If you choose to be bountiful and generous, do not be unjust. If you are determined to shower favors upon Lafourche, do not rob and filch Rapides and Natchitoches of their just representation. We are too proud to ask any boon at the hands of this Convention. We only demand exact and rigorous justice. If I have used strong language, the provocation has been great and the injustice crying.

If the presidential vote of 1844 is to be the criterion in apportioning the representation to some of the parishes, it should govern as to all, unless there is a well founded suspicion that the election has been fraudulently and illegally conducted. No suspicion that I am aware of, rests upon my parish; and why should she be placed under the ban of this Convention? I do hope, sir, that the majority of this Convention that have voted to despoil Rapides and Natchitoches of their just representation, will reconsider that vote. That they will not persist in a gross and flagrant act of injustice, and sacrifice the principle they have announced in this apportionment, that representation shall be equal and uniform. Let it also be borne in mind, that one of these parishes, Rapides, contributes more to the treasury, and is the largest tax-paying parish in the State, except the parish of Orleans. If any parish deserves favorable consideration, she does; but I repeat she asks no favors; she wants no boons extended to her. She only demands her just rights, for whether you take popu-

lation, property, qualified electors or taxation, she is clearly entitled to an additional representative.

Mr. GUION raised the question of order whether Mr. Brent, under the rules, could move for the reconsideration without giving two days previous notice, as he had voted with the minority.

Mr. LEWIS had voted with the majority, and his opinions were still the same in reference to the representation accorded to the two parishes embraced in the gentleman's (Mr. Brent's) motion; but with the view of giving that member, the opportunity of testing the question over again, he would move for the reconsideration.

Mr. MILES TAYLOR hoped that the motion would include the parish of Assumption. That parish was clearly entitled to an additional member, as he was prepared to show to the satisfaction of every one.

Mr. LEWIS moved that the vote upon the apportionment to Assumption also be reconsidered.

Mr. BENJAMIN said that in his opposition to taking the number of votes polled at the presidential election as a guide to apportion the representation, he was influenced by the conviction that these returns were for the most part unworthy of reliance, by reason of the numerous frauds that marked that contest. He had heard nothing to induce him to change that opinion. This morning, in a conversation with the delegate from Rapides, (Mr. Brent) in which that gentleman attempted to convince me that his parish was entitled to four members, the very arguments he employed satisfied me that my first impressions were correct; for there is nothing in our assuming the basis of qualified voters that would justify us to make the apportionment in reference to the votes cast in the presidential election. These returns cannot be taken as a guide with any propriety. The election laws received various interpretations in various parts of the State. In some parishes, the constitutional requisitions were implicitly observed, and the spirit and intent of the laws were strictly maintained, in other parishes great laxity prevailed, and latitudinarian constructions were placed, by which general and unqualified suffrage was permitted. In the western and north-western parishes, the system of free suffrage more especially prevailed—every one were allowed to vote without reference to the most essential requisites of the constitution. Whereas, in lower Louisiana, the conditions of suffrage were in the main strictly insisted upon, and no one was allowed to vote unless his name was on the tax-list, or unless, if accidentally omitted, he exhibited his receipt showing that he was a *bone fide* tax payer. Hence we find the true cause for the great disparity in the votes given between the eastern and western parishes. It is true, that under ordinary circumstances, we would be justified in taking, as our guide, the number of votes given at a general election, where there was enough excitement to bring the people out. But to do so, there should not be such a sudden and wonderful increase as to excite general suspicion, which suspicion would be confirmed, as in the present case, upon a reference to the census of population. We have before us the census for 1840, and by that test we can at once perceive that the astonishing increase of voters in particular portions of the State, has been the result of frauds upon the ballot box. In no other way can we account for such an increase. The census affords us the more unerringly the means of arriving at a correct conclusion in reference to the voters, because one must bear a relative proportion to the other.

If then we take the census as a criterion, where is the injustice, of which the delegate from Rapides (Mr. Brent) so vehemently declaims? The population of the parish of Rapides in 1840, was three thousand two hundred; the population of the parish of Lafourche Interior three thousand nine hundred and eighty-six. Yet Rapides is allowed, by the apportionment, the same representation as Lafourche Interior. The gentleman (Mr. Brent) seems to think there is great injustice done to Rapides! Is it not enough to place her representation upon an equality with a parish that outnumbered her in population, and where it is reasonable to presume that the increase has been since 1840 in a proportionate ratio? Must we despoil the parish of Lafourche of a representative and give it to Rapides, merely because Rapides, having allowed every one to vote, cast more votes than the parish of Lafourche, where great strictness prevailed, and the ballot

box was more sedulously guarded? Surely the delegate from Rapides cannot, with any reason, ask us to do this, nor can he expect it to be done with any propriety! I am at a loss to understand why the gentleman (Mr. Brent) should complain so bitterly: I can see nothing to justify it!

But the gentleman accuses us of partiality in allowing to the parishes of St. Landry and Calcasieu, six representatives, while we allow but five to the parishes of Natchitoches and Sabine. How is this accusation borne out? We find by refering to the census that the population of Natchitoches, (and Sabine was then included as a portion of Natchitoches,) was seven thousand and forty-two, while the population of St. Landry was seven thousand one hundred and twenty-nine. The more I examine the question the more am I convinced that the grossest injustice and inequality would result, were we to take the number of votes in the several parishes at the presidential election, as a standard in apportioning the representation of the different parishes. It is from that conviction that I have opposed the concession of three representatives to the parish of Plaquemines, and that I am opposed to extending the representation of Natchitoches to four and Rapides to four. I place no reliance upon the returns of the election for president in 1844 in the different parishes, as indicating their relative qualified voters, and for that reason, and taking the population of each parish as a better indication of the qualified voters, I have assented to giving three representatives to Lafourche Interior, because I believe she is entitled to that number.

As to the pretensions of the parish of Assumption, for which an additional representative is claimed by one of her delegates, (Mr. Taylor) I am disposed to acknowledge the claim, because I find that in 1840 her population was four thousand. I trust, however, there is no design to connect the interests of Assumption with the other parishes, for which a reconsideration has been moved, and to compromise the different pretensions of each, upon the principle of their delegation's voting reciprocally the one for the other, so that they may combine their relative strength. If anything like that is designed—if there is to be any such thing as log-rolling, I shall oppose the reconsideration of the vote upon Assumption, as well as the reconsideration of the vote upon Rapides and Natchitoches; for I would rather that Assumption should be deprived of an additional representative than to participate in any such design.

The delegate from Rapides (Mr. Brent) assures us that the increase of population in the north-western portion of the State has been such that we must prepare to relinquish the balance of power and submit to the government of that portion of the State. That may be, but I will not believe that the increase of the population is as great as it has been represented, until it be demonstrated by something more conclusive than mere assertion. I do not want declamation—I want figures. I want statistics to establish the result, and until it be shown by such testimony, I must be excused for entertaining doubts, and acting upon the only satisfactory data that is yet before me. The present apportionment of representation is but temporary. It will continue only until a census be made by the State of the qualified voters, and upon that census the representation will be apportioned. If Rapides be really entitled to four representatives, she will then get them; and if the increase in the north-west has been so prodigious as to entitle her unchecked to assume the reigns of government, it will be time enough when that fact will be established for us to submit to the yoke.

Mr. Miles Taylor said that the delegate from New Orleans (Mr. Benjamin) seemed to suppose that some understanding existed between the delegates of the several parishes for which a reconsideration had been moved, in order to increase their representation. This insinuation made it necessary for him to declare that the parish of Assumption stood entirely upon her pretensions, as did the parishes of Rapides and Natchitoches. As a matter of courtesy the motion for reconsideration had been made to embrace the three parishes, but upon the different questions themselves, said Mr. Taylor, I shall vote according to the dictates of my judgment, based upon the data before me.

As our means of information are rather scant and limited, and defective in their general character, I went this morning to

the office of the State treasurer for the purpose of discovering the amount of taxes contributed by the several parishes, as under our constitution the quality of a tax payer is indispensable to the exercise of suffrage, and presuming that the amounts assessed in the several parishes would afford some approximation to their legally qualified voters. I may be told that there is an exception to taking the amount of taxation as an indication, arising from the fact that a large portion of the lands settled upon in the north-west have been acquired from the general government, and that the period for which they are exempted from taxation has not yet expired, and therefore there are more voters than tax payers in the parishes in that section of the State. I am disposed to concede some difference, but it is too trifling to vary the result to any considerable extent, particularly in reference to the parish of Rapides.

The tableau of taxes for the year 1844, shows that there are nine hundred and sixty-one tax payers in the parish of Assumption: nine hundred and twenty-two in the parish of Natchitoches, and five hundred and sixty-six in the parish of Rapides. From this statement it appears conclusive that Assumption is clearly entitled to three representatives. The increase of her population since 1840 has been considerable, and I would remark that a great many new settlements are forming beyond the banks of the Bayou Lafourche. I owe it to candor to state, in order that no misapprehension may exist, that while I shall vote to increase the representation of Assumption an additional member, I shall vote against the increase proposed for Natchitoches and Rapides, because I do not think their pretensions to four members have been made out—at least not to my satisfaction.

Mr. Brent said, in reply to what fell from the gentleman from Assumption, (Mr. Taylor) as far as the parish of Rapides was concerned, he would remark, that a great number of persons there had settled upon lands acquired from the United States, and that the period for which these lands were exempted from taxation had not yet elapsed. Hence it was they paid no tax, although they were entitled under the constitution to vote, and this satisfactorily explained any apparent discrepancy between the tax list and the number of votes cast.

If I had before, said Mr. Brent, entertained any doubt about the design of a majority of this body to apportion the representation arbitrarily and tyrannically, without reference to the rules which it has itself adopted, that doubt would have been dispelled by the extraordinary arguments which have been advanced by the delegate from New Orleans, (Mr. Benjamin.) This Convention has decided that representation is to be regulated and fixed by the number of qualified electors in each parish. We are now engaged in making the apportionment for the year 1845, but the delegate from New Orleans, entirely disregarding the basis we have adopted, has been able to find nothing to justify the high-handed course of the majority, but a reference to the white population of Rapides in 1840. Instead of endeavoring to show that we have not votes enough to entitle us to four representatives in 1845, he goes back to the situation of our white population in 1840. This is a new way to make an apportionment upon the basis of qualified electors, to go back five years in the history of a parish, and ascertain how many men, women and children it had five years ago. Sir, does the number of the white population in Rapides in 1840 furnish any index as to the number of voters in 1845? Gentlemen know little of the history of our section of the State—its progress—its advancement and rapid increase in population, wealth and productiveness, who reason from such premises to such a conclusion. They may infer what they please, they may apportion the representation as they please, for it seems they have the majority, but they cannot deny the fact, which is apparent on the face of the statistics, that the parish of Rapides is justly entitled to four representatives, upon the basis of qualified electors.

Away then, sir, with all such arguments as have to travel back five years in the history of our country, for some fact upon which to repose, and that fact at last to have no connection with the subject matter of our present inquiry. We have adopted the basis of qualified electors. Let us adhere to it. Let us do justice to the different parts of the State, and abide by the rules which we ourselves have established.

But it has pleased honorable gentlemen

to attempt to invalidate the only data we have for ascertaining the number of qualified electors in this State, at this time. The pretext for this is that frauds were committed at the last Presidential election. It is to be regretted that this alarming discovery was not made at an earlier period, and particularly before the representation was awarded to the parish of East Baton Rouge. It was not until we ascended from lower and eastern Louisiana to the northern and western portion of the State that these fraudulent election returns became invested with such suspicion as to meet with the indignant rebuke of this honorable body.

I am well aware, Mr. President, that the returns of the late Presidential election, in the northern and northwestern parishes have revealed an unpalatable fact to the people residing on the coast of the Mississippi, and in the southern quarters of the State. It announces to them that the balance of power, which they have so long held, is about gliding from their grasp, and will shortly be transferred from their hands to the hardy yeomen of the west. No wonder that such strenuous attempts are made to avoid these returns, for although the number of votes in the eastern portion of the State has been swelled by innumerable frauds, yet it is manifest that the west is rapidly gaining the ascendancy by the progressive increase of its population. The motive for these attempts is obvious. The election returns of 1844 disclose at once their weakness and our strength.

But the honorable delegate from New Orleans (Mr. Benjamin) informs us that the elections in the north-western parishes were loosely conducted—that every one was permitted to vote—that no questions were asked—and that the constitutional requisites for suffrage were not insisted upon, and as a pretext why the parish of Lafourche Interior should have an additional representative, although not entitled to it by the number of her voters, we are told that the elections in that parish were so fairly and conscientiously conducted, that the necessity was very apparent of awarding to her an additional representative. Here is a new element introduced into the basis of representation. We must amend the section we have adopted, and that our constituents may know what we have done, and *how* we have done it, it should be stated that two representatives were awarded to Lafourche for her qualified electors and one for her remarkable honesty, so that the paragraph would read thus: Qualified voters two, honesty one, total three. Political power is hereafter to be given to honesty, and representation to be distributed according to the scarcity of voters. The people of Louisiana, who love truth and justice, and hate wrong and oppression, will know what value to attach to such flimsy pretexts as these.

But, Mr. President, in the course of the apportionment we will shortly reach the city of New Orleans. I have some curiosity, sir, to know upon what data we will be called upon to decide in fixing her representation; and would it not be a little remarkable if these gentlemen who have been shocked at the idea of imaginary frauds in the north-western quarter of the State, should claim the full benefit of the undoubtedly fraudulent vote polled in this city. Upon no other basis can New Orleans be allowed twenty representatives, now claimed for her, than upon the supposition that her vote at the last presidential election was fair and honest. Was it so, sir? And is it not known and admitted that the most infamous frauds were practised in this city, upon that occasion? I do not make this statement from my own knowledge, but I predicate it upon the authority of one of the delegates from Lafourche, (Mr. Beatty) who publicly preferred this charge upon the floor of this Convention, and no representative from the city has yet ventured to deny it. I take it for granted that the fact is now well known, and will not be disputed. Something has been said this morning about thirteen hundred tax receipts that were fraudulently issued to subserve election purposes, by the authorities of East Baton Rouge. At what point in the election were these tax receipts felt? Where did they make themselves known, by swelling to that extent the number of votes cast? Sir, if I mistake not, if I have not been wrongly informed, these tax receipts were expressly ordered for city consumption; and if you wish to find them in the votes of the last presidential election, you must look for them in the ballot boxes of New Orleans. Here was a fraud com-

mitted upon a scale of magnificence, which throws into the shade all the minor frauds that were practised in the country parishes of the State. But, sir, I suppose when we come to the city,the gentlemen who are ever so watchful of her interests, will insist upon allowing to her the full benefit of her thirteen hundred spurious and illegal votes. The enormous vote of the second municipality, is doubtless to be allowed its full representation, though resting upon fraud, while the parishes of Rapides and Natchitoches are to be shorn of their just influence, upon the mere surmises and inferences of gentlemen, that the election was loosely and irregularly conducted. The ordinary vote of Rapides is eight hundred and fifty or nine hundred—her vote in the presidential election was one thousand and five. The increase was not remarkable, unusual or calculated in any degree to excite suspicion. In this respect it can compare very favorably with New Orleans. The ordinary vote of the city is less than four thousand, her vote at the presidential election was five thousand six hundred and thirty-eight. Besides, by a reference to the census of 1840, you will find that the proportion of white males over twenty years, in the parish of Rapides, is unusually large in a population of its size. In 1840 there were one thousand and two white males in that parish above twenty years of age. Now when you recollect that every one who was at that time seventeen years of age, would have been old enough to have voted in 1844, there is nothing remarkable in the fact that she polled one thousand and five votes in 1840. On the contrary, the census of 1840 substantiates and verifies the vote of 1844. I will not pretend to deny but that some may have voted there who did not reside in the parish of Rapides, but the number was comparatively few; and making every allowance for non-residents, she is justly and fairly entitled to four representatives.

I conceive the presidential election of 1844 to be the best criterion for determining the number of votes in each parish, except where there are well founded doubts of the legality of the vote. Never was there greater interest felt in the result of any political contest. Popular opinion was thoroughly canvassed—appeals were made to the people, of the most exciting character, and the vote of every qualified elector was secured at the ballot box. Now, sir, where there are no charges of fraud, what better or fairer test could be desired of the number of qualified voters in each parish? If the number of votes has been swelled at any one point to an unusual and suspicious extent, or if, as in the case of new Orleans, it has been debased by known and acknowledged frauds, I would reject it, and fall back upon some previous election, or some other data, that would enable us to dispense equal and exact justice. But in all other cases where there are no charges of fraud based upon probable grounds, I would adhere to the returns of that election as the surest and the safest guide. Taking them as the test, the parishes of Rapides and Natchitoches have not had justice dealt to them. I hope, sir, that the Convention will retrace its steps, and remedy the wrong which it has inflicted.

Mr. Benjamin: The city will readily consent to base her representation upon the population in 1840, if the country will do the same.

Mr. Brent: I have said that that was not the basis determined upon by the Convention.

Mr. Dunn said that the vote given to increase the representation of Plaquemines, and the attempt now making to increase the representation of the parishes of Natchitoches and Rapides, confirmed him in his opposition to taking the basis of votes, and particularly the returns of the presidential election as a basis for the apportionment. In making a comparison between the relative claims of the parishes of Rapides and East Feliciana he could not but be convinced of the greater claims of the latter to additional representation. Yet East Feliciana is to have but three representatives! Rapides is accorded the same number, but her delegation are not satisfied—they needs must have four to content them. If four representatives are granted to Rapides, I shall feel myself under the necessity of insisting upon four representatives for East Feliciana, because her claims are better founded. Again, the parish of Jefferson is allowed but three representatives, and yet it is manifest, whether you take population, qualified electors or taxation, she has greater claims to four than the parish of Rapides. The

total number of representatives should not have gone beyond seventy-five, and here we are at ninty-eight, and Rapides and Natchitoches contending for two more representatives. Where are we to stop if we admit the reasonableness of the argument of the delegate from Rapides, (Mr. Brent)?

Mr. C. M. Conrad hoped that the question of apportioning the representation would be decided upon sound principles of general equity and justice, and not upon particular political considerations. The returns in the presidential election of 1844 are confessedly a very defective guide to ascertain the qualified voters of the State, and little or no reliance can be placed upon them. Extraordinary efforts were made by both parties to carry the State, and unfortunately they were both not sufficiently scrupulous as to the means of obtaining the preponderance at the ballot box. A great deal of illegal voting took place; in some of the parishes the vote was extraordinary large, where the constitutional requisitions and the enactments of the law were observed it was proportionately small. A delegate from the parish of Livingston, told us a day or two ago, that the vote in that parish fell below the number of qualified voters. This probably was the case in the Lafourche parishes; while in other parishes, Rapides and Plaquemines, for example, the increase was beyond all calculation. It would be unjust to adopt the vote of 1844 as a standard, because in some of the parishes the number of votes was disproportionately large in comparison with the number of tax payers, the legal voters; while in a few other parishes, the vote was actually below the number of their qualified electors. I shall not certainly attempt to make any discrimination between the parishes; but this I can assert, that the votes of those parishes were the largest where the contest was most hotly disputed, and where the greatest efforts were made to secure the majority, or increase it—where the judges were the least scrupulous, and where there were the greatest facilities afforded for manufacturing voters!

The gentleman from Rapides (Mr. Brent) asks whether we are about to introduce a new principle into the basis of apportionment—and to give so many representatives to a parish because it is entitled to them by reason of its qualified electors or its population, and so many for its honesty in conducting its elections. The gentleman thinks such a system of rewards and punishments quite a novel idea. So do I; but nevertheless I think it would be better to augment the representation of a parish where the elections had been properly conducted, than to augment the representation of a parish where they had been improperly conducted, and to allow its illegal and fraudulent voters to be counted in the apportionment of its representation!

The same deputy has referred to the number of votes cast in the parish of Rapides at the presidential election of 1844, as entitling it to one more representative. If the votes cast were legal, it must be conceded that pro-creation goes on faster and with greater rapidity, and that the young sooner attain the age of majority in the parish of Rapides than any where else in the known world! If we consult the statistics of population, whether in the United States, or the kingdoms of Europe, we find that males bear a striking proportion to females, and that the increase in population is pretty nearly equal, and in accordance with the immutable laws of nature. How, I would ask the gentleman from Rapides, can it be possible that a population of three thousand two hundred in 1840 could give one thousand and five electors in 1844, under our restricted system of suffrage?

Mr. Brent: There were in 1840 as the gentleman will see from the census, one thousand and two individuals under twenty years.

Mr. Conrad—It is incontestible that there was much greater latitude taken in the western portion of the State than in lower Louisiana; and hence the vote in the former is considerably greater. But the fact that illegal votes were cast in a parish, and that its electors are *apparently* more numerous than those in a parish where the election was legally conducted, should not give it any advantage over the latter. That would be rewarding fraud. I am ready to admit that population is increasing very fast in the western parishes, but surely not in a ratio greater than in the parish of Orleans. And yet the city is perfectly willing to take the census of 1840.

which is presumed to be so unjust towards the western parishes!

The delegate (Mr. Brent) complains of the injustice of the apportionment in reference to the western parishes. Now what are the facts? That the western parishes get more representatives than any other portion of the State. Out of ninety-eight representatives, they will have thirty-three, more than one third; and if we add the representation in the neighboring parishes, whose interests are identical in the third congressional district, the fourth district will have the greater portion of the weight of members in the legislature. The increase in the apportionment in lower Louisiana, exclusive of the city, is quite small. In Florida it is scarcely any thing—nothing in the lake parishes! So elated is the delegate from Rapides (Mr. Brent) at the prospect, that he tells us that the balance of power is lost to us forever. That may very well be, but let us enjoy that power until you can show us you have the numerical superiority, and then as a matter of course, we must submit. But not till then!

Mr. Brazeale hoped that an additional representation would be conceded to the parish of Natchitoches. It was clearly entitled to this increase, and he could not believe, with facts such as had been adduced in support of this claim, that the majority in the Convention would persist in denying to that parish justice. He would call for the ayes and nays upon the motion to reconsider.

The question was taken with the following result:

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Couvillion, Downs, Humble, Hynson, McCalop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wadsworth, Wederstrandt.—27 yeas.

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Winchester and Winder.—31 nays.

The motion to reconsider was lost.

Mr. Brent then moved for the re-consideration of the vote apportioning the parish of Rapides, and called for the yeas and nays.

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wadsworth and Wederstrandt—27 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Winchester and Winder—31 nays; so the house refused to reconsider.

The question was then taken to reconsider the vote upon the apportionment, to the parish of Assumption.

Mr. Miles Taylor called for the yeas and nays.

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Carriere, Cénas, Claiborne, Conrad of Orleans, Culbertson, Derbes, Dunn, Garcia, Guion, Kenner, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mazureau, Pugh, Roman, St. Amand, Scott of Baton Rouge, Splane, Taylor of Assumption, Wadsworth, Wederstrandt, Winchester and Winder—32 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Conrad of Jefferson, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Voorhies and Waddill—27 nays; so the question was reconsidered.

Mr. Miles Taylor then moved that Assumption have three representatives in place of two, and called for the yeas and nays—yeas 31, nays 28.

Mr. Humble then moved that the Convention reconsider the vote upon the apportionment to the parish of St. Landry. Inasmuch as the parishes of Rapides and Natchitoches were placed below the number to which they were entitled, it was but fair to equalize the representation by re-

ducing the number of representatives to the parish of St. Landry. He would, therefore, move to reconsider the vote upon the apportionment to St. Landry, with the view of moving a reduction in that apportionment.

Mr. Lewis said that he would not debate the question, but would simply remark, that the argument employed by the gentleman (Mr. Humble) to sustain his motion for the reconsideration of the vote upon the apportionment to the parish of St. Landry, was a species of reasoning that he did not think would satisfy the consciences of gentlemen that were disposed to reduce the representation to the parish of St. Landry, for no other motive than because they conceived that injustice had been done to the parishes of Rapides and Natchitoches. If such an argument as this were to prevail, we would at once convert this house into an arena for gladiators. He would submit the facts, and if gentlemen were willing to act upon the principle, so be it! If gentlemen believe that the parish of St. Landry has more representatives allotted to her than she is entitled to, I ask no better favor (said Mr. Lewis) than for them to vote to reduce her. But if they are convinced, upon an examination, that she is really entitled to the number at present allotted to her, I trust they will not vote in favor of this motion through a feeling of revenge or from the disposition to retaliate for a supposed wrong perpetrated upon some other parishes.

The total amount of taxes assessed upon persons and estates in the parishes of Natchitoches and Sabine, to whom five representatives are allowed, were eleven hundred and sixty-seven; that is to say, there were eleven hundred and sixty-seven taxpayers in the two parishes; while in the year 1843, one year preceding, (I have not the tax list for the parish of St. Landry for 1844, but the number of tax-payers has not certainly decreased) where in the parish of St. Landry alone, leaving out Calcasieu, were fourteen hundred and twenty-eight—exceeding both the parishes of Natchitoches and Sabine. I cannot comprehend why the parish of Natchitoches, having fewer tax-payers, should be placed upon a precise equality with the parish of St. Landry. If gentlemen believe, upon their consciences, that the assessment of taxes entitle the parish of Natchitoches to be placed upon that equality, or that there is an equality of legal voters, then I expect them to vote for this motion. But it is my conviction that whether you take total population, federal numbers, or any other possible basis of apportionment, that the parish of St. Landry would out number the two parishes of Natchitoches and Sabine together. These are the only remarks I shall make. In casting our votes, I presume we are governed by the best lights before us, and are actuated by a disposition to do equal justice to all. Not by particular sectional of views, to enhance the relative political weight of one section at the expense of another—to rob the south to give it to the west; but to give to each that voice in the government to which it is fairly entitled. If I have erred, upon being made sensible of my error, I shall retrace my steps. I trust that the house will not yield to the motion to reconsider, for the discreditable motives that have been assigned.

Mr. Mayo would call attention to a particular fact; from a statistical table before him, it appeared that St. Landry and Calcasieu had given at the last presidential election, thirteen hundred and sixty-five votes.

Mr. Lewis: The votes of Calcasieu were not counted, owing to some difficulty or informality in the returns; the thirteen hundred and sixty-five votes alluded to by the gentleman, were the votes given by St. Landry alone.

Mr. Wadsworth would state a fact that had come to his knowledge as a member of the house of representatives, in a contested election, that had not arisen in that house—it was ascertained that no returns were made from the parish of Calcasieu.

Mr. Voorhies: There were some of the returns from Calcasieu included in the returns from St. Landry.

Mr. Brent would vote in favor of the motion to re-consider, not because he did not think that the parish of St. Landry was not entitled to five members, but because he considered that her claim to them was no better than that of Natchitoches and Rapides to four. Since the majority had refused to give Natchitoches and Rapides the number to which they were fairly entitled, he thought it no more than right to

reduce St. Landry so as to equalize the representation. It was necessary to make the reduction so as to maintain a just standard—according to the qualified voters, St. Landry was not more entitled to five representatives than Rapides to four.

The question was taken upon Mr. Humble's motion to reconsider, and Mr. Lewis called for the yeas and nays.

Messrs. Brazeale, Brent, Burton, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRea, Mayo, Porche, Porter, Prudhomme, Scott of Baton Rouge, Scott of Madison and Splane—17 ayes; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Carriere, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Pugh, Peets, Read, Roman; Roselius, St. Amand, Saunders, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder—42 nays.

So the Convention refused to reconsider.

Mr. Beatty moved to refer the apportionment for the city, to the Orleans delegation, with instructions to apportion the representation into eight districts, as follows: eight representatives to the First Municipality; eight to the Second Municipality; three to the Third Municipality and one to the right bank.

Mr. Eustis suggested that it would be better to leave the number of representatives to be allotted to each district, to the discretion of the Orleans delegation in making to them the reference. He was not prepared to say that the allotment in the proposed instructions was not a fair distribution, but he thought it best to leave the question opened.

Mr, Beatty: I have no objection.

Mr. Brent moved to strike out from the apportionment, the number twenty representatives for the city, and to substitute sixteen.

Mr. Beatty, with the view of taking the question upon Mr. Brent's motion, withdrew the proposition to refer.

Mr. Brent had one or two remarks to make. The city would not be entitled to more than ten votes, unless the returns of the presidential election were taken as a basis. I object to that criterion as relates to the city of New Orleans. When I claimed these returns as exhibiting the number of qualified voters in the parish of Rapides, where no frauds were committed, it was objected, that they could not be received because frauds had been committed in some of the other parishes, particularly in the parish of Orleans. These charges of frauds in the city were often repeated and have never been denied upon this floor. In fact the great disparity that existed between the votes given in New Orleans at the Presidential election, and those given in the election for two delegates to the Convention, about fifteen days after, substantiates the charge. In the latter election the votes fell one hundred and thirty to one hundred and fifty short of the former.

Mr. Beatty would explain in a few words why he would vote against the motion to reduce the delegation of the city from twenty to sixteen. It is well known, said Mr. B., that I was in favor of restricting the power of the city by a direct vote. I cannot vote to do that indirectly which the Convention have determined contrary to my wishes should not be done directly. If we take the census of the State as our authority, there is no parish entitled to the representation accorded her. If you consult population, the city of New Orleans is entitled to double the representation allowed her. A different rule prevailed in relation to suffrage in the upper portion of the State, from that in the lower portion. Every one indiscriminately were allowed to vote in the upper portion of the State, while suffrage was restricted in the lower parishes to the legal voters. Gentlemen may shake their heads, but this is an undeniable fact. I have it from persons resident in that portion of the State, who are cognizant of the fact. There is no question of the cause that produced the apparent disparity in the vote given at the presidential election, between the parishes in the north and those in the south. The proof is, that the south obeyed the law, and that is the reason why her vote is smaller, and instead of being punished, she ought to be rewarded for her fidelity.

Mr. Wadsworth said, that so far as the repartition of the apportionment were predicated upon voters, it was the most indefinite and vague standard that could be

adopted. Frauds were committed at the last presidential election all over the city. In the first ward of the First Municipality, where the Whig party predominated the vote was larger than was ever given before—frauds were rife every where in the city—both parties were equally culpable in conniving at them. There was nothing but fraud; every body and any body went to the polls and exercised that sacred privilege, that our forefathers fought for seriously, and shed their blood. The ballot box was prostituted. Those who had no identity with the country were allowed to vote upon the presentation of a miserable certificate, which they had but just obtained. I could have brought a cargo of emigrants that had just reached the Balize, and in twenty-four hours they would have been converted into legal voters by the political parties. If such outrages are persisted in at our elections, they must inevitably sap the foundation of our liberties!

I am not, said Mr. Wadsworth, an enemy to foreigners. Far from it. I have no objections to their becoming citizens when they are really identified in feeling with the country. When I reflect upon the numerous frauds committed in the city, I am really amazed that so much ado should be made about the alledged frauds in the parish of Plaquemines. All will remember the cab votes! In the investigation that took place in relation to those votes, it was discovered that the tax receipts were invariably for two wheeled cabs—the tax was two dollars on two wheeled cabs, and four dollars on four wheeled cabs, but to cheapen the transaction, the tax was paid on the two wheeled cab, although there was no such thing in the city as a two wheeled cab. The consequence was, however, that according to these receipts the city was overrun with two wheeled cabs!

And yet, after all the frauds in which the city has been so prolifiic, the delegation from the city objected to the allotment of the delegation to which the parish of Plaquemines is entitled, because, say they, frauds have been committed in that parish upon the ballot box. This charge comes with a peculiar bad graca from that quarter. The city of New Orleans ought to blush in making it.

I have been invariably in favor of federal numbers as a basis. It is less favorable to the parish which I have the honor to represent than the basis of electors. But, in as much as the basis of eleetors has been chosen, it ought to be adhered to in good faith, and each parish should be entitled to the representation to which it can exhibit a good title by an exhibit of its tax papers.

Whereupon, on motion, the Convention adjourned.

Friday, March 14, 1845.

[The following remarks of Mr. Porter, in support of the propostion of Mr. Downs on the apportionment, was ommitted in the debates of the 14th inst.]

Mr. Porter said he regarded the motion as a very important one, and thinks that the city of New Orleans ought to be restricted in her representation, for he feels perfectly sure that no *interest* which is purely commercial, should be suffered to control both the political and agricultural interests of the State, and that must be the result if we establish the principle that representation shall be *strictly* according to numbers. Gentlemen may think that country members are blind as to the effect such a measure would produce, but he would say the city members were not, they were well aware of the power and influence it would give the city. Mr. Porter said that when he was discussing, some days ago, the subject of country or parish representation, he had taken the trouble to read from all the constitutions in the United States, with a view to show that representation was not based solely on numbers; and he thought he had succeeded, for he had found but four States, in that course of examination, that had laid down numbers *exclusively*, and they were inland States, having no large cities. The gentleman that followed him in the discussion (Mr. Roselius) had said, (I quote his remarky,) "the principle invoked, wherever it may be found, is a superanuated one;" and to prove his remarks, he said the constitution of Massachusetts was established in 1779. And he said "among the States enumerated by the gentleman from Caddo, figures the State of Rhode Island, whose charter was obtained from that vicious monarch, Charles the Second," &c. Let us for a moment examine this subject, and see if

this principle be a superanuated one. The State of Maine in the year 1819, amended and re-adopted her constitution, retaining the principle alluded to; the State of Massachusetts remoddled and re-adopted her's in 1820, containing the principle first adopted that each sub division of the State should have at least one representative. The constitution of Rhode Island, which was read from, is not the charter of that vicious monarch, &c., but is the constitution adopted by the people, in November, 1842. The same may be said of nearly all the New England constitutions; they have been revised and re-adopted; the principle, therefore, is not a superanuated one, even in the old constitutions.

I will now, to show that the principle of giving to each county one representative, is not a superanuated one—read from a few of the most modern constitutions. [Here Mr. Porter referred to the pages and sections from which he read]. The constitution of Tennessee contains this provision, "that each county having one-half the ratio, shall have one representative." This he said, gave to each county one representative. This was one of the new constitutions.

Mr. Porter then read from the constitution of Mississippi, as follows: "*Provided*, however, that each county shall always be entitled to at least one representative."

Alabama—the constitution also reads as follows: "*Provided*, however, that each county shall be entitled to at least one representative."

The constitution of Missouri reads as follows: "Each county shall have at least one representative."

The constitution of Michigan—"Each organized county shall be entitled to at least one representative."

The constitution of Arkansas reads as follows, "*Provided*, that each county now organized shall, although its population may not give the existing ratio, always be entitled to one representative."

The States of Pennsylvania and New York, in their constitutions, hold precisely the same language as the constitutions above read. These are all modern constitutions. Then we find in both the ancient and modern constitutions, this principle of giving to each county one representative, irrespective of numbers, has been steadily adhered to, at least in more than twenty constitutions. So much, then, for the gentlemens' bold assertions.

The gentleman from Assumption, (Mr. Taylor) whom he has always heard with attention, the other day, in discussing the report of the committee which provided that no parish or city should ever be entitled to more than one-fifth of the representation in the State legislature, he said that this principle of restriction was a new one, "and that it presented a new spectacle, not hitherto to be found in the history of our country." Another honorable gentleman had said "it was a deed without a name." If the gentlemen would indulge him, he would examine this subject.

Whilst the committee had this subject under consideration, and I had the honor of being one of that committee, the delegation from the city, that were on the committee, concurred in the restriction, and one of them, (Mr. Benjamin) in argument afterwards in this house, admitted that some restriction ought to be placed on the city, in consequence of the concentration of numbers, &c.; but the gentleman from Assumption (Mr. Taylor) appears to be more the representative of the city than the city members themselves; he has *fell* much in love with the city; I know not why; perhaps in consequence of some of her splendid *ladies* or *municipalities*, I know not; but he has (so to speak) pushed the representatives of the city out of the way, and taken the city on his own broad shoulders. But if the gentlemen will follow me to the seaboard States, I think I will show them that restrictions have been imposed in nearly, or quite all the States that have large seaport towns.

Here Mr. Porter referred to the page and section in the book of constitutions, and read first from the constitution of Georgia, as follows: "Each county containing three thousand persons, agreeable to the foregoing plan of enumeration, shall be entitled to two members; seven thousand to three members, and twelve thousand to four members; but each county shall have at least *one*, and not more than four members." He wished here, first, to call gentlemens' attention to this fact, that representation did not increase according to population; for instance, three thousand in one county gave two representatives, but

when increased to twelve thousand gives but *four*. Now, if representation had increased according to *numbers*, *twelve thousand* would have been entitled to eight members; then, as numbers concentrate, representation decreases; but furthermore, no county shall have more than *four representatives*. Now sir, suppose that one-half the population of the State of Georgia was in the city of Savannah, (which now has say over one-fourth) what proportion in the representation of the State would that county have? There are sixty-three members in the legislature; then sir, though there might be a majority of the whole State in this county, she would have but *four representatives*, less than one-fifteenth. Here, then, is a spectacle in the history of our country, and here there is a *name* found for the deed we were about to perpetrate. But I hope the gentleman will follow me along the sea-shore; South Carolina has a large sea-port town, Charleston—let us see if there is no restriction there. Here Mr. Porter read from the constitution of the State of South Carolina, showing that the house consisted of one hundred and sixty-one members, and that the city of Charleston and the counties of St. Philip and St. Michael together, were entitled to but fifteen members in the lower house, which is but one-tenth; and in the senate to but two members out of thirty-eight, which is one-nineteenth. Here, again, is a much stronger restriction than has been asked for. Here, then, we have a pair of spectacles through which we may read, in the history of our country, of similar restrictions. North Carolina has no large sea-port town, but she gives to each county one representative, which is a sufficient restriction where there is no large town. The State of Virginia has no large city, but if I recollect aright, the city of Richmond has but one representative. The State of Maryland I will next call to the attention of the gentlemen; and, sir, I wish their particular attention. Here Mr. Porter referred to the page and section of the constitution of Maryland, from which he was going to read; he said he would not read the ninth section, but he would call the attention of the house to it, for the tenth section, which he would read, alluded to it.

The ninth section appoints the representation to all the counties; the lowest number to any county is three, the highest five; in the tenth section it is provided as a check on the city of Baltimore, that in all future apportionments these numbers shall not be reduced, but (said he) I will read the section: "From and after the period when the next census shall be taken and effectually promulgated, and from and after every second census thereafter, the representation in the house of delegates from the several counties, and from the city of Baltimore, shall be graduated and established on the following basis; that is to say, every county which shall have, by the said census, a population of less than fifteen thousand souls, federal numbers, shall be entitled to elect three delegates; every county having a population of fifteen thousand souls and less than twenty-five thousand souls, federal numbers, shall be entitled to elect four delegates; and every county having by the census a population of twenty-five thousand and less than thirty-five thousand souls, federal numbers, shall be entitled to elect five delegates; and every county having a population of upwards of thirty-five thousand souls, federal numbers, shall be entitled to elect six delegates; and the city of Baltimore shall be entitled to elect as many delegates as the county which shall have the largest representation on the basis aforesaid, may be entitled to elect; *provided*, and it is hereby enacted, that if any of the several counties herein before mentioned, shall not, after the said census of the year eighteen hundred and forty shall have been taken, be entitled by the graduation on the basis aforesaid to a representation in the house of delegates equal to that allowed to such county by the ninth section of this act, at the election of delegates for the December session of the year eighteen hundred and thirty-eight: such county shall, nevertheless, after the said census for the year eighteen hundred and forty, and any future census, and forever thereafter, be entitled to elect the number of delegates allowed by the provisions of the section, &c., &c."

Mr. Porter said, we see here a house of delegates of seventy-nine members, and the city of Baltimore having but six votes out of that number and but one in the senate, and this number in the house can never be reduced by any future apportionment—neither can the city ever have more

than six. Yet gentlemen have the hardihood to state on this floor, that restrictions are unheard of *things—deeds* without a name, &c. In the report before us, the city of New Orleans is not named, but in the case above the city of Baltimore is particular named, pointed out, and restricted.

Here I might stop and rest this matter, but I will proceed. Rhode Island, the constitution of which says expressly that each county shall have one representative, and that no town or city shall have more than one-sixth of the members to which this house is hereby limited. Here is another *express restriction*, but gentlemen assert that it is an unheard of outrage and injustice, unknown in all civilized countries. And the city of New York has a population of only one-eighth of the whole State, and that empire State has given to each county one representative; this, with a restriction which is laid on the city in the senate, and the fact that she is a farming State, and not a planting one, and that those farms generally contain only from twenty-five to one hundred acres, it is morally impossible that a city should ever get the ascendancy over the country. The same remarks will apply to Pennsylvania; though in the State of Massachusetts, there is no absolute or express restriction, yet that State is represented by towns, and there are some counties that have from twenty to thirty towns represented. Therefore it is utterly impossible that Boston should ever overshadow the country. Mr. Porter here said he would read from the constitution of Maine: "The house of representatives shall not be less than one hundred, or more than two hundred." No town shall ever have more than seven delegates; in a house of one hundred, this would be one-fourteenth; and in a house of two hundred, one twenty-eighth. I will not pursue this subject further, we have found restrictions wherever they were necessary, from Georgia to Maine. And they are much greater every where, whilst there is no other city that requires half the restriction, yet it is called a solecism in government; an abandonment of republican principles, &c. &c.

One of the honorable gentlemen from the city (Judge Eustis) says there can be no antagonist interest between the city and the country; that "every tree that is felled and spade that opens a drain" in the country, is for the benefit of the city. But is this an evidence that the city in all future time will do that which is most just and equitable towards the country. It proves that all we do, and all the improvements which are made in the country are for the benefit of the city. But why did not that eloquent gentleman proceed and tell us the whole truth; the subject was one which would have suited a gentleman of such ability. Why did he not tell us that every tree that was *felled* and every drain that was opened, not in Louisiana alone, but in the State of Mississippi, Tennessee, Kentucky, Virginia, Pennsylvania, thence sweeping down the west side of the Ohio and the Missouri, including the free States, and indeed one half the States in the Union? Why, I say, did he not tell us that wherever the axe was laid to the root of a tree, wherever a drain was opened, wherever a ploughshare turned a furrow, or a scythe or reap hook saved a harvest, in this vast valley, from the *base* of the Rocky mountains to the gulf of Mexico, they were laboring for the prosperity of this vast city? that all those improvements are to advance its interests, and that this city has no more comity of interest with this State than it has with the balance of this vast valley? Why did he stop at the boundary of this little State.

Sir, said Mr. Porter, I was in this city thirty years ago; what was it then compared to what it is now? It was then settled principally by native Louisianians; where are they *now?* by whom will this vast city be *peopled?* by the sons of native Louianians? *No*, in forty years they will be, in this city, *few* and far *between*. But, sir, it will be peopled by commercial men from the four quarters of the globe; by all tongues, kindreds and people; the most commercial and enterprising men from the whole world, will be tempted by their cupidity, and with a view of bettering their fortunes to settle here, having no interest in common with the State, opposed in principle to our *peculiar institutions*, and holding, as they will, the rights of government in their hands, what may we *expect?* I appeal to native Louisianians to pause before they act. This State can never have a large population, independent of the city. It is a planting country, the farms must be

large, and the population never can be dense; but, sir, there can be no bounds set to the growth of this city. It must have a larger population than the whole State besides.

Now, sir, I ask, is it right that one small parish, less perhaps, than ten miles square, having but one interest, and that entirely commercial, should dictate laws to the whole State, and oppress the agricultural interest at discretion? Now sir, it is utterly impossible that a majority of the whole State can ever be crowded into one parish for the purposes of agriculture. Then when such concentration of numbers takes place, they must be almost exclusively commercial; the question is, shall the commercial interest swallow up all the rest? Sir, if the city is hereafter to dictate laws to this State, what may we not look for in the way of wharfage taxes and additional items of expense on our produce? Sir, if this be permitted, the mind of man, the greatest stretch of the human imagination, may not be able yet to see the injustice and oppression that may be visited on the hard laboring and planting part of this community. Sir, one of the great objects of Thomas Jefferson in the acquisition of Louisiana, was to save western produce from the inquisitorial duties and taxes then laid on it. If we yield to city legislation, I fear we have gained but little. Sir, the whole valley of the Mississippi is deeply concerned in this matter, and in the decision of this question. Sir, (said Mr. Porter) we have heard much that is eloquent said on the other side of this question, but I have not heard one argument that I even thought plausible, except on the subject of taxation. Gentlemen have said here that if you restrict the city, and the country have the majority, they might tax the city, and this would be taxation without representation. Then give the city the advantage, and the same might be said by the country; but this is supposing a case that I think never can exist, that is, that the country would tax a certain species of property in the city higher than they would tax the same in the country. This is a supposition so unjust and unreasonable, that I really think it is altogether without foundation. But if gentlemen are sincere, and are really afraid of being thus taxed, and are only requiring additional representation to protect them from this injustice, I will offer them a compromise which will effectually secure them against this injustice. If they do not wish to have this large representation for the purpose of giving them the political, and all other powers belonging to the State, they will not desire more than twenty members, if they can be protected against improper taxation. Mr. Porter said he would read from the constitution of Tennessee, which he would offer at a proper time to embody in this constitution. Mr. Porter read a part of the section as follows: "All property shall be taxed according to its value; that value to be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State; no one species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value," &c. Now if gentlemen are sincere, they will accept this proposition.

Mr. Porter said the gentleman from Assumption (Mr. Taylor) had said, whilst opposing restricting New Orleans, that he was willing to restrict her in the senate. He (Mr. Porter) thought the city ought to be restricted in both. Sir, if you give the city a majority in the lower house, having the number of one hundred, and it having from the city and its vicinity, some eight senators out of thirty-two, leaving some twenty-five senators only from the country, I ask any reasonable man if the senate could long resist the force of numbers that would be against them? It is not a supposable case that the senate could always resist such an influence; but suppose the case, and what would be the effect? Why, sir, the wheels of government must be suddenly stopt; the shock could not be sustained, and revolution must be the consequence. Sir, it will not do to create antagonist interests between the two houses.

Mr. Porter said he might have felt too much excited on this subject, but he was sure he had no prejudice against the city, and would not knowingly do her or any individual on earth any injustice; he hoped the restriction would be retained.

WEDNESDAY, March 19, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. HINTON.

The journal of yesterday was read and adopted.

The Secretary announced that he had not received the receipt from the reporter for his reports.

On motion of Mr. BENJAMIN, Mr. Soulé was excused attendance in his seat, in consequence of ill health.

ORDER OF THE DAY.

The order of the day being the motion of Mr. Brent, the delegate from Rapides, to reduce the number of representatives reported by the committee for the city of New Orleans, from twenty to sixteen,

Mr. DOWNS had the floor from the previous day, but being indisposed, he yielded his place to

Mr. HUMBLE, who rose and briefly addressed the house. He said that during a long residence in the northwestern part of the State, he had been a close observer of what had been passing around him. In the parishes of Catahoula and Caldwell the laws were as well and truly observed as they have been in any part of the State. At every election poll in those parishes, a tax list was exhibited, and no man was allowed to vote who was not truly recorded a tax payer and property holder. There were charges levelled at the citizens of those parishes; they were compared to highwaymen, and called intriguers. He (Mr. Humble) saw nothing but habits of industry practised by the people while he lived there, which had been for the last twenty years, and he knew that the laws and constitution were no where more strictly observed.

Mr. SPLANE said that it devolved upon him to say a few words in reference to the subject under debate, and he only regretted that he had not been able sufficiently to investigate many facts in reference to it. Although opposed to some of the members of the Orleans delegation, he still considered them too liberal to inflict injustice on any portion of the State. He would, however, wish to lay before the house the fact, that the vote polled in New Orleans was, in 1838, three thousand and ninety-two, in 1842, three thousand three hundred and forty-seven, and in 1844 the vote had increased to five thousand six hundred and thirty-eight. How was this enormous increase? He asked the gentlemen to explain. He considered that a great injustice had been committed against the parishes of Natchitoches and Rapides. He did not understand why these parishes were not entitled to the same share of representation as Lafourche or Assumption, and if we take either the federal or electoral basis for our guide, the facts will fully support this opinion. There were other facts, too, to which he would call the attention of the gentlemen, and amongst them that of the thirteen hundred voters who were made in one day at Baton Rouge. Amongst other persons who were acquainted with those proceedings were the surveyor general and the sheriff of the parish. The latter officer had made out thirteen hundred tax receipts, and a tract of land was laid off and sold under the superintendence of the parish judge. The principal number of these voters came down to the city, and their votes go to swell up the figures on which the apportionment is sought to be based. There were, however, (he had understood so at least,) about one hundred and ten of them democrats; he had heard that some of them had voted in the parish of Jefferson, but they were very few. These were the means taken to increase the vote of New Orleans from 1842 to 1844, an increase of upwards of one half the former year, and if any parish therefore should be restricted, he considers that New Orleans should be the one. With these views, therefore, he would vote in favor of the motion of the delegate from Rapides.

Mr. CONRAD of New Orleans, in reply to the delegate who spoke last, said, that if the number of votes cast in the year 1840 were taken by that gentleman, he would find it still greater than that of 1842. It was a fact well known that the elections in 1838 and 1842 were in July; those of 1840 and 1844 were held in November, and consequently the vote must necessarily have been much larger, being both Presidential elections; and it was further a matter of notoriety that the election of 1844 was one of great and peculiar excitement, and on that occasion no measures were left untried to increase the number of votes. But many of these illegal voters—*illegal* under the present constitution—will be rendered legal by the operation of the new constitution. They will then have resi-

dence, which is the only qualification necessary. The sixty thousand free white population of New Orleans fairly entitle her to (according to the ratio allowed to Rapide) sixty representatives, giving one for every thousand. If you give a certain number of inhabitants to a given territy, the rate of apportionment is quite out of proportion. If we take the census of 1840 for country parishes, why not take it for New Orleans? He would not ask the number that she is fully entitled to however, but he thought twenty representatives where sixty was due, wast the least number that could be granted.

Mr. Brazeale offered as an amendment to the motion of the delegate from Rapides to allot fifteen representatives for the city of New Orleans, viz:

For the First Municipality,	7
" Second Municipality,	5
" Third Municipality,	3
	15
And for that part of the parish of Orleans over the river,	1

Mr. Benjamin moved to lay both amendments on the table indefinitely.

Mr. Boudousquie seconded the motion.

Mr. Downs said, he hoped the motion would not prevail. The members from New Orleans had urged the reduction of the representation of many of the country parishes with much ardor, and they appeared to exult in every case in which their efforts had been successful. But he would remind the gentleman that New Orleans was not yet settled, and they should bear in mind the old adage, "that they who live in glass houses should not throw stones." He was, however, satisfied to try them by their own rule, if the gentlemen from Orleans were not satisfied with the ratio of 1842, they should go back to 1840. For want therefore of better data, he would for a moment scrutinize the votes taken in New Orleans, and thus show the great disparity of increase from 1840 to 1844 here, to what it could almost by possibility arrive at in any reasonable manner. The total population of the first municipality in 1840; was forty-eight thousand; that of the Second, twenty-one thousand; and yet in 1844, the second municipality polled seven hundred more votes than the First. It seemed to him like giving a bounty to fraud. Here was more fraud committed in the Second Municipality than there was throughout the rest of the State. Gentlemen need not have gone to Plaquemines to seek the election frauds, they were to be found nearer home; but it sometimes proved a good way to defend a bad position by commencing an attack upon our enemies. A more tremendous fraud was never perpetrated; the facts were before them. Thirteen hundred voters made at Baton Rouge, one hundred and ten of whom were democrats; but the rest were for New Orleans; where, he would ask, did these men vote, but in the second municipality. Many persons voted here who had no legal right to do so. He was aware of a circumstance which afforded an illustration. A steamboat that traded some way up the Ouachita river, arrived here during the election, her owners on board, two of them whigs, and one a democrat, and all non-resident here! The democratic voter presented himself at an early period of the polling to record his vote, but was told that he, not being a resident, could not vote. Towards the close of the election, however, he met his two whig friends who inquired at once whether he had voted: when he told them he had not, from having been refused on account of being a non-resident—they immediately brought him to the place where they had voted themselves, consequently his vote could not be refused. He (Mr. Downs) saw no great evil in a man voting at a general election wherever he might be at the time, but he could not tolerate the idea that the Convention were to take such a basis for the representation of New Orleans. He was willing to do ample justice. Let New Orleans be divided into eight districts with two representatives to each, and one over the river; he thought no complaint could be made to this. The vote on the question now debating from time to time has shewn the power of the city members over those from the country. They have fought us with one-tenth our number, and now if we are to give them one-fifth, must not their power be irresistible. They will after a short time, not even consult the country on the measures to be brought forward; the extent to which this may be carried cannot be now judged. Feeling, however, that the most calamitous consequences are to be dreaded

if the power of the city is not limited, he sincerely hoped that the motion would not pass. He hoped gentlemen would maturely reflect before acting in this great question, as it was a measure which might involve the danger of placing the power of the government in the city, and wresting it completely from the great masses of the people.

The city have now more than one-sixth allotted to them, it is better to limit them to this than to grant too much. The most dangerous power which can be given to men, is that which strengthens the power of its possessors to retain it. They may convene again, and should you ask them to give up their power, they will laugh at the idea. When New Orleans contains half a million of inhabitants, her power will increase so as to become overwhelming.

Mr. Conrad of New Orleans, said he felt himself called on to reply to the few observations which had fallen from the gentleman from Ouachita. Frauds had been spoken of as having been committed in the second municipality, but he said before and would say again, that the vote in the city by the evasion of the property qualification has always been greatly swelled. Bnt could any one say that in the respective parishes throughout the State, similar frauds were not perpetrated? He knew it to be a fact that there had been.

Mr. Brent here made some observation relative to the Baton Rouge tax receipts.

Mr. Conrad said he would like to know, out of what lands the vote was raised in Rapides.

Mr. Brent replied, from the Congress lands.

Mr. Conrad remarked that that was the easiest mode of working and after all, of the two, it was the one of the least merit. But with regard to the second municipality, the frauds were not greater there than in other municipalities. The gentleman had spoken of Baton Rouge, no one ever pretended that these voters came from anywhere else but from New Orleans, that they were other than citizens of New Orleans, and who will be fully entitled to vote under the new constitution. So far as regards the number of representatives for each municipality, he believed the delegation from New Orleans were not going to quarrel about it, they only wished for a fair representation for the city. A large amount of emigrant population too, are constantly entering the second municipality, which accounts for the rapid increase of that part of the city, and it is also clear from the best data that can be had, that the increase of population in the country bears no proportion at all, compared with that of the city, which contains seven-eights of the whole white population of the State.

Mr. Marigny said that he felt called upon to repel the constant attacks made by the delegate from Ouchita, (Mr. Downs) who, it appeared to him, had endeavored, from the commencement of the session, to excite the passions and feelings of country members against those from the city. That delegate was not content with using the weight and influence which his talents fairly entitle him to, but managed to bring to his aid the overwhelming aid of local prejudice against some of the delegates of that house. He charges the delegates from Orleans with obtaining everything they wished, with crushing every measure they were opposed to. The delegate has forgotten that he (Mr. Downs) brought forward his own project for apportionment, with the federal basis for representation. After long debates, in which the delegate took frequent and distinguished part, the subject was again referred. The delegate, who seems to have the power of ubiquity, particularly wherever the fourth congressional district is concerned, is again at his post; he is in the minority, but like a skilful general, he is engaged in attack, and though sometimes foiled, yet he will continue to attack until at length he comes off victorious: so was it with the delegate from Ouachita. The committee return a different basis; but he (Mr. D.) offers a substitute, he now offers the basis of qualified voters, the basis assailed by him at the onset. He advocated and this he carried. Next he fears improper influence from the proximity of the city to the legislature, and forthwith commences the attack, he gains his point; and not satisfied with removing the seat of government out of the city of New Orleans, he gets a proviso inserted, that it shall never be "within less than sixty miles" thereof. No particular place either has been fixed for its removal to; perhaps one delegate may wish to remove

it to Lafourche; another will, it may be presumed, propose the college of Jefferson as a suitable place, because the State has expended some five hundred thousand dollars on that building; some other may say that Baton Rouge is the only place to hold the legislative sessions. It did not, however, suit the views of the delegate to fix a place; but lest it might come back to New Orleans he has placed the restriction, that it shall require four-fifths of the legislature to carry the measure. Did the gentleman call this democracy? A restriction of four-fifths of a majority placed on the free will of a free people; if that was democracy, then he no longer understood the term as he did before. After all this, New Orleans did expect a representation proportioned to her population of qualified electors, and the city delegates gave up all the rest. But the delegate, (Mr. D.) whose tactics are as admirable as his talents are great, had maintained in his project, another proviso, that no new parishes should be created that did not contain an area of six hundred and twenty-five square miles, thereby shutting out the old parishes from ever subdividing themselves and leaving it to the fourth congressional district alone to subdivide, and thereby increase the representation. Thus the delegate has obtained more for his parish than he even asked for, and a restriction has sought to be placed on New Orleans. When the question of removal was brought forward, the delegates from New Orleans remained silent, lest they might be reproached with using undue influence; the delegate (Mr. D.) has, however, in his opinion, used uncontrollable influence wherever the interests of the fourth congressional district was at stake. He (Mr. Marigny) would be most happy to see his friend, the delegate from Ouachita, emigrate to the city of New Orleans, and would exert his best efforts to place him in the house of representatives or in the senate, feeling well assured that he would prove a sterling friend to the interests of New Orleans, from the powerful sway he has exercised against her in his advocacy of the fourth congressional district.

Mr. Downs said he felt much indebted to the delegate (Mr. Marigny) for his complimentary remarks, at the same time he would observe that whilst he rendered him (Mr. Downs) all the victory, he reserved to himself all the benefits of the triumph, for in every struggle where the interests of the fourth congressional district were at stake, he had been defeated; and he was at a loss to understand how or where he had been the victor. For the last few days, wherever an effort was made to restrict the power of country parishes, distant from this city, the New Orleans delegation have voted in solid column for the restriction. He would advise the gentlemen that New Orleans, with a circle of fifty miles, will have the power of wielding the interests of the State to any extent, as she has now with a small proportion, on that floor, and as he feared she would that day. As to the removal of the seat of government, that is a mere visionary boon; it is only in case the legislature wish it, but who can compel them? And if he had now the power to abrogate the provision for removal, he would do it, as he could not look upon any measure otherwise than chimerical, which can never reach any practical result. He had been charged with log-rolling, but he confessed if any such means had been used by him, it was with but very poor success. He thought he rolled to little purpose; and he considered that this removal provision was worthless; the time consumed in obtaining it was, in his opinion, completely thrown away. Gentlemen say we have got a representative for every parish; this, if the number were limited to seventy members in the house of representatives, would be something; but when that number is raised to one hundred, it becomes of no avail. He was driven from one proposition after another, until the power of New Orleans is left almost unlimited. He would only say that if she gets the power, she will hereafter ride rough-shod over the people of the State, and the yeas and nays of this day will be looked to by those who will come after. He hoped the motion would not prevail.

Mr. Benjamin said that when gentlemen upon that floor would be called to give an account of the stewardship of their votes of that day, they would be able to stand a proper test. Were they to be threatened? he would ask, and told that because two members were taken off northern Louisiana and added to lower Louisiana, the city of New Orleans was to be restricted?

He said no; the delegation from New Orleans say no. That Convention should never force a measure upon them which would brand her citizens as unworthy; they shall be left unshackled. He told the country members before, he tells them now to choose their own basis, to take any they please, but no restriction for New Orleans. We (the city delegates) had taken the basis offered. The delegate from Feliciana had said a few days ago, that justice was forced upon the city; he would tell that gentleman that justice was no bitter pill for them to swallow. He knew not upon what principle the delegate from Ouachita attacked the conduct of the Orleans delegation. In regard to the country parishes' apportionment, the parish of Natchitoches formerly had one representative; it is now divided, and the original parish now gets five; but when gentlemen have failed to break down the political power of lower Louisiana, they fall back upon New Orleans to avenge themselves.

Mr. BRENT said: I conceive, Mr. President, that no claim could be more unjust than that now advanced by the city of New Orleans, to twenty representatives. I should like to know upon what data, what basis, and what principle, such a claim is to be allowed? I go for meting out the same justice to her which she has extended to others, and I desire that the chalice of which she has made us drink, shall be commended to her own lips. Are the people of New Orleans of a different mould and texture, that higher privileges and greater favors should be conferred on them than are conferred on the free citizens of other quarters of the State? The delegates from the city have positively refused to apportion the representation of the parishes of Rapides and Natchitoches upon the basis of votes cast in the presidential election of 1844, and at the same time they have not insinuated any charges of fraud, against the fairness of that election. They now, sir, turn round, and planting themselves upon the acknowledged fraudulent vote of this city, insist that her representation shall be awarded to her upon that basis, which they themselves have rejected and denounced. That there is gross injustice and manifest wrong in such a proceeding, no one can pretend to deny. The honest vote of two parishes has been repudiated and set aside, by the action of the city delegates; and now these same gentlemen seek to avail themselves of a vote which has been swelled and enlarged to an unprecedented extent, by the most abominable and stupendous frauds. I call the attention of the Convention particularly to this point, that the city of New Orleans is not entitled to twenty representatives upon any other data than the presidential election of 1844. The tax list and the vote of no previous election will give her more than sixteen representatives. How then can the delegates from the city, after despoiling two parishes of their just representation, according to the vote of 1844, now insist that they are to have the full benefit of the wrong which the city herself has committed? Such a claim comes with bad grace, and should meet with no favor in the eyes of this Convention.

That the vote of this city was fraudulent to a great extent, in the Presidential election of 1844, is fully evident, from the fact that a few days afterwards, at a special election held for two members of this body, her vote fell fifteen hundred short of what it was at the presidential election. The excess of fifteen hundred was unquestionably fraudulent and spurious, and did not properly belong to the fair and honest vote of this city. And yet the representatives of the city, in their eagerness for political power, do not hesitate to claim for the city the full benefit of the frauds which were thus notoriously committed. I leave the people of the country to judge between us.

But let us see at what result facts and figures will bring us, in apportioning the representation of the city. Every parish that has two hundred and seventy-six voters, is to have one representative, and for every fraction exceeding the representative number by half, it is to have an additional representative. Now, the city of New Orleans polled, at the last presidential election, five thousand six hundred and thirty-eight votes. If we strike off fifteen hundred for illegal votes, which is a moderate deduction, it will leave four thousand one hundred and thirty-eight as the number of legally qualified electors in this city. The representative number of two hundred and seventy-six, will divide this fifteen times, and leave a fraction of two hundred and seventy-four, which would entitle her to

sixteen representatives, according to the rule we have established. For this number I shall vote, and justice demands that her representation should be reduced to this point.

Some intimations were thrown out yesterday, by a delegate from New Orleans, (Mr. Benjamin) as to the probability that some of the country parishes had combined and log-rolled together, for the purpose of acquiring an undue preponderance in the State legislature. No charge of that kind can be brought with truth against our section of the State, for if we have log-rolled with any one, we have log-rolled to very little purpose. It may be that we are rather the victims, instead of the perpetrators of the act. Now it is, to say the least of it, a somewhat singular coincidence, that the city delegates and the delegates from a certain favored region called the sugar district, have been voting in solid column upon all questions connected with the apportionment of the State. Unfortunately for us, they constitute a majority of this body, and hence we have seen them, by the strong hand of power, taking representatives away from cotton parishes that were justly entitled to them, and giving them by way of largess to sugar parishes, that had no just claim or title to them. Now, sir, if this coincidence should go a little further, and if the delegates from the favored region, in consideration of the services rendered by the city, should vote to give her a representation to which she is not entitled, it might not be log-rolling; such a thing of course could not be believed, but evil disposed persons might think that it had a most awful squinting in that direction.

So far, in the apportionment of representation, the Convention appears to have been guided by no fixed rules, but on the contrary, it appears to have substituted its arbitrary caprice for the basis of representation, established by the deliberate vote of this body. To show how unjust has been its tyrannical use of power, I will call the attention of the Convention to a few facts connected with the apportionment of representation to the parishes of Pointe Coupee and Lafourche Interior. I find by the census, that the white population of Pointe Coupee is two thousand and eighty-seven; the white population of Lafourche is three thousand nine hundred and eighty-six; the total population of Pointe Coupee is seven thousand eight hundred and ninety-eight; the total population of Lafourche is seven thousand three hundred and three; the number of votes cast in Pointe Coupee was three hundred and forty-nine, and the number cast in Lafourche was six hundred and eight.

Here, sir, it appears that Pointe Coupee has more than one half the white population of Lafourche, more than half the voters, and a larger total population, and yet you have given her but one representative, and Lafourche Interior three representatives. There may be justice, equality and uniformity in this, but my vision cannot discover these qualities in that apportionment. Pointe Coupee happens to be washed by the waters of Red river, and this has sealed her doom.

It is with mortification and deep regret, Mr. President, that I am forced to declare, that but little is to be expected from the sense of justice of this Convention. The north-west quarter of the State has been put under the ban, and not only have no favors been extended to it, but its demand for justice has been spurned and scouted at. We are forced to submit. We must bow in acquiescence to the declared will of the majority. But I would advise those gentlemen who seem so anxious to control the growing influence of the west, to fasten the chains well, and bind the rivets sure, if they expect to keep us in subjection. I tell them that the political power of this State is fast leaving the banks of the Mississippi, and setting with a strong and irresistible tide to the western and northern quarters of the State. There is no emigration to the eastern part of the State except to New Orleans, while upon the west there pours a constant stream of emigration, that must inevitably produce the result which I have predicted. The delegates from the north-west section of the State, constitute but one-seventh of this body, yet, sir, when we return to the councils of the State, even under the unjust apportionment which has been made, we shall have more than one fourth of the whole representation. At that time we shall be able to protect ourselves. Until then we must submit with the best grace we can, to the behests of the majority.

Mr. Roselius would show the gentleman (Mr. Brent) that his position was a wrong one, and that New Orleans was fairly entitled to much more than twenty representatives. The number of qualified voters had been established as the ratio of representation, let the apportionment therefore be made according to the fixed basis. He would lay down as data for this purpose the vote of 1844. Was it not known to every member of this house, that the franchise is fast extending? Was it not most evident and clear to every reflecting mind, that this apportionment of representation is to be made with reference to the new, and not the old, constitution? and therefore he deemed it just to take for his guide the number of votes polled at the last election, because they have all the qualification requisite by law. Under the provisions of the new constitution every male white citizen of the United States, who shall have resided two years in the State, and one year in the parish, is an elector. Under the present constitution a property qualification is required, and therefore the number of voters must be manifestly increased when that necessity is removed. The next data to go on, and which forms the strongest evidence in favor of the right of New Orleans, is the population. Every white male found in the city over the age of twenty years is qualified to vote, the exceptions being alienage, not being a citizen of the United States, or not being two years resident in the State. For these exceptions proper deductions must be made. According to correct statistical information, the total population of the city in 1840 was twenty-three thousand three hundred and sixty-seven. It requires no argument to prove that this number has increased; it has almost doubled; but at least no one will attempt to say that it has diminished; and taking every reasonable deduction from this number, and in view of the fact that of those, all who have remained since in the city will have residence, the qualification for citizenship, New Orleans is entitled to forty members instead of twenty. He hoped gentlemen would look at these facts before they voted. New Orleans was about to get twenty members, when she was entitled to forty; and he would like to know upon what principle gentlemen proposed to reduce one half still less. He trusted that there was still some principle left on that floor—if there was any principle remaining, it would show itself in the action taken upon this question. Is not the basis adopted? therefore why not apportion according to it? When he saw the unholy purpose of disqualifying the citizens of New Orleans, solely because they were living in New Orleans, discountenanced and lost, he greatly rejoiced, for he felt that there was some justice left in the house; but when he sees an attempt made to curb New Orleans, to restrict her representation, to deprive her of her rightful political power, then indeed he feared that justice had disappeared. But he hoped it would not be. It was a most flagrant injustice, this effort to cut off the number of New Orleans representatives, and he could only compare it to the conduct of Lear's daughters. The king who had abdicated the throne, was to have had an hundred knights of his own to attend him; but when he sought the hundred one of his daughters said that fifty were sufficient, and another said twenty-five, another ten —and at length the poor old king was coolly told by his ungrateful children, that their attendant knights would occasionally attend on him, and so his hundred knights were reduced to none at all. And thus the attempt is made to restrict New Orleans. Twenty representatives is at first proposed, then sixteen, somebody else will propose ten, and at length our country friends will doubtless tell the city of New Orleans that she shall have no representatives, the country members will look after her interests occasionally. He therefore hoped that common justice would not be denied the city; she was entitled to forty members, she is satisfied to take half that number, and therefore he hoped it would not be lessened.

Mr. Wadsworth was willing to adopt the same basis for New Orleans for as any other parish in the State. He was an advocate for uniform and equal representation. But when he came to view the gross frauds committed at the last election, he was unwilling to predicate the apportionment on such a basis. In the first ward of the first municipality, where the vote polled in 1840 was four hundred, it amounted up to eight hundred and ninety-five in 1844; it was not possible to attain

this increase, and yet in Plaquemine, where they had an alluvial soil, continually increasing, the vote of 1844 was rejected. The city members advocate the doctrines to-day which they jumped up against yesterday. He did not wish to restrict them, but he wished them to be consistent, let them apply the same principle to every parish alike, and let that principle be equal and uniform representation.

Mr. Culbertson briefly replied to the last speaker in reference to the vote of the previous day on Plaquemine. He said that if time had been allowed New Orleans to make out a proper and correct census of her qualified electors, New Orleans would be found entitled to more than twenty representatives. If it were that any portion of the State were deprived of its just share of representation, that was no reason why the citizens should be restricted in their privileges. The delegates had been sent there to act according to the rules of right and justice, and not for the benefit of this parish or that. According then to the strictest construction of those principles, would he record his vote and act at all times, while he held a seat on that floor.

Mr. Miles Taylor observed that the charges made by the delegate (Mr. Brent) against oppression being used towards a portion of the State, were altogether unsupported by solid fact; they were as idle as the wind, and destitute of all correctness.

According to the first report of the committee, it was proposed that the house should consist of seventy-two members, and to the seventeen parishes in the north-western portion of the State, nineteen representatives were allotted. The number now is fixed at ninety-eight members, and the seventeen parishes are increased to eighteen, with twenty-five members, which is a larger proportion of ninety-eight, than nineteen is of seventy-two. The Lafourche district, which had originally eleven representatives, has now but fourteen, which bears a less proportion by nearly one-third, while the north-west is increased nearly that amount. In regard to New Orleans, he considers nineteen representatives as her right, under the basis adopted, and thought that were a correct census available, she would be entitled to even a larger number. She would have a right to something over one-fifth at least, of the whole representation.

After a few words from Mr. Mayo, Mr. Benjamin's motion to lay on the table indefinitely, was put and carried. The yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Leonard, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, St. Amand, Saunders, Soule, Taylor of Assumption, Trist, Wadsworth, Winchester, and Winder, voted in the affirmative—40 yeas; and

Messrs Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of East Baton Rouge, Scott of East Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff, voted in the negative—31 nays.

Mr. Beatty then renewed his motion for the adoption of the section.

Mr. Downs moved to limit the number of representatives for New Orleans to seventeen.

Mr. Grymes moved the previous question, which was: shall the main question be now put? and his motion prevailed. The yeas and nays being called for, it was found that,

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Carriere, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Soulé, Taylor of Assumption, Trist, Wadsworth and Winder, voted in the affirmative—40 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of East Feliciana, Scott of East Baton Rouge, Scott of Madi-

son, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wedersfrandt and Wikoff, voted in the negative—30 nays.

The adoption of the section was then put and carried. The yeas and nays being called for, the following gentlemen voted in the affirmative:

Messrs. Aubert, Benjamin, Beatty, Boudousquie, Bourg, Briant, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Soulé, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder—40 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of East Feliciana, Scott of East Baton-Rouge, Scott of Madison, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff—30 nays.

Mr. Brent moved that the committee be instructed to divide the apportionment as follows:

To give the	First Municipality	8
" "	Second "	6
" "	Third "	5
" "	Over the river	1
		20

Mr. Conrad thought that the matter ought to be referred to the delegation from Orleans.

Mr. Culbertson said he thought there would be no effort on the part of any member of the city delegation to interfere unjustly with one portion of the city more than another.

Mr. Grymes considered it premature on the part of the Convention to interfere with the distribution of the city representations. For his own part he cared not how the matter was disposed of, but there was no possibility that the arrangement, if improper, could escape detection. Giving instructions before hand, seemed like an interference with the duties of the committee. When the report is made, the house will have it in their power to act as they think proper on it.

Mr. Brent having withdrawn his motion, the section as adopted was then referred to the Orleans delegation without opposition, and Mr. Marigny was appointed chairman.

The Convention then adjourned till tomorrow morning at 10 o'clock.

Thursday, March 20, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

Mr. Cenas, on behalf of the Orleans delegation, to whom were referred the apportionment of twenty representatives to the parish of Orleans, reported the composition of the several districts in the three municipalities, and that the following should be the number allotted to each: First municipality eight, second municipality seven, third municipality four, and the right bank one.

Mr. Cenas called for the adoption of the report.

Mr. Winchester moved that the report be laid temporarily on the table, as all the members of the Orleans delegation were not in their seats.

Mr. Downs hoped that there would be no further postponement. He saw no necessity for deferring action upon the report, inasmuch as there was no difference of opinion, he presumed, upon it.

Mr. Claiborne hoped that the report would be laid on the table, subject to call. The only question was this, that the Orleans delegation were not all, at this moment, in their seats. The courtesy ought to be extended, so that they might participate in a matter exclusively affecting the city. They had been compelled to make this apportionment—to cut up and fractionize the city; this was a most difficult and unpleasant task. None were satisfied with its performance. One of the delegates had expressly dissented—that gentleman was not now in his seat. He hoped, under all the circumstances, that this matter would not be acted upon, but in the full presence of the city delegation.

The question was taken on the motion to postpone the consideration of the report, and it was lost.

The question then recurred upon the adoption of the report.

Mr. CLAIBORNE begged that it be distinctly understood, that the Orleans delegation had acted through compulsion. This division of the city into petty fractions, was distasteful to all the citizens of New Orleans. Their representatives had acted through compulsion, and not through choice. For himself he could never accede to it.

The report was adopted.

Mr. RATLIFF, on behalf of the committee on contingent expenses, offered a resolution allowing $34, for the hire of a servant. After some remarks from Mr. Humble, and explanations from Mr. Ratliff, the resolution was adopted.

ORDER OF THE DAY.

The Convention resumed the consideraion of the apportionment of representation.

Mr. MARIGNY suggested an alteration in the boundaries of one of the districts in the third municipality. This alteration was made, together with a correction suggested by Mr. Benjamin.

Mr. LEWIS proposed to fill the blank for taking the census, by inserting the year 1850. The United States census would then be taken, and the census-takers of the United States and of the State, would be a check upon each other.

Mr. VOORHIES said, that the gentleman's object would be better obtained, by fixing the period for taking the census of the State in 1851, and the succeeding legislature could make the apportionment with both before them.

Mr. MILES TAYLOR thought the census should be made as soon as practicable. We were unable to know precisely, when the first legislature, under the new constitution, would assemble. That legislature should ordain the taking of the census, and the succeeding legislature should ordain the apportionment. If the legislature assembled in 1846, the census might be taken in 1847, and the apportionment be made in 1848. He would propose 1847.

Mr. LEWIS conceived that 1850 would be long enough to postpone taking the census, and not too long. It would be best not to disturb the present apportionment, which was within two of the maximum number, until that period. We would see how it would work. He would, therefore, call for the vote upon 1850.

Mr. BENJAMIN saw no necessity for having the census taken by two different sets of officers. To have this statistical information twice in ten years, would be better than once in ten years. It would be very useful for other purposes. This might be done by prescribing that the first State census should be taken in 1847; the second in 1855; and then every tenth year thereafter—he would propose that as a substitute.

The question was then taken upon Mr. Voorhies' motion, to fill the blank with 1851, and it was lost.

The question recurred on Mr. Lewis' motion for 1850, and it was lost.

The Convention then took up Mr. Benjamin's proposition.

Mr. MILES TAYLOR withdrew his motion, and the proposition of Mr. Benjamin prevailed.

Mr. DUNN proposed a proviso after the fifth line to the sixth section, to the effect that each parish containing five thousand inhabitants, including slaves, shall be entitled to two representatives; and each parish containing one thousand inhabitants, shall be entitled to three representatives.

Mr. HUMBLE would rise to a point of order. This proposition had been twice rejected.

Mr. DUNN said that the subject matter had never been acted upon by the Convention. It formed a portion of the compromise offered by the delegate from New Orleans, Mr. Benjamin.

Mr. DOWNS: It has twice been rejected.

Mr. DUNN wished to explain the object he had in view in presenting the proposition. Its importance would be obvious upon a moment's reflection. The Convention had established a rule, that every parish should have one representative. The city of New Orleans was very populace. It was growing every day and would ultimately possess a very dense and concentrated population. Where was the check upon the city? Where was the protection for the country? In 1847, scarcely a single parish would be entitled to more than a single representative. The representative number would be raised, and the representation would be absorbed by the city of New Orleans. The country par-

ishes would have each but a single representative. Was there any thing to act as a check, as a guard; any thing to prevent New Orleans from controlling the legislation of the State? Any thing here to preserve an equality of power between the city and the country? I do not know where to find it, and hence I have deemed it my duty to offer this proviso. As it is, the political power reside in the city of New Orleans and the smaller parishes, they will control the destinies of the State, and the voices of those parishes that contribute the heaviest taxes and have the greatest amount of operative labor, will be stifled. They will not be heard in the councils of the State. If it be the sense of the house that the equilibrium of political power shall be maintained, this proviso prevents that question. Gentlemen are wrong in supposing that it changes the basis of representation. It does not change that basis, but it preserves simply the rights of those parishes whose voices ought to be heard and respected—those that pay the most to the government, but who from the preponderance of slave labor have the smallest white population.

Mr. VOORHIES would move to lay this proposition indefinitely upon the table. It was clearly out of order. The same matter had been already before the Convention, and had been distinctly rejected. It is now attempted to revive it. The Convention after having had under advisement several propositions, have finally determined upon the basis of qualified voters. A proposition offered by the delegate from Ouachita (Mr. Downs) to restrict the city was rejected. And now that we have assumed the basis of qualified voters, we are asked to embody in the same provision the very contrary principle. How can they exist together. One or the other must prevail. The federal basis has been voted down. The proposition was out of order and therefore ought to be laid indefinitely upon the table.

Mr. DUNN called for the yeas and nays upon the motion to lay his proposition indefinitely upon the table.

Messrs. Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Burton, Cade, Cénas, Carriere, McCallop, Claiborne, Chambliss, Covillion, Culbertson, Derbes, Downs, Garrett, Hudspeth, Humble, Hynson, Kenner, Porter, Ratliff, Read, Roselius, Scott of Baton Rouge, Scott of Madison, King, Labauve, Leonard, Legendre, Lewis, McRae, Mayo, Mazureau, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Roman, Saunders, Soulé, Stephens, Splane, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill and Wederstrandt—50 yeas; and

Messrs. Aubert, Beatty, Dunn, Guion, Porche, Pugh, St. Amand, Sellers and Winchester—7 nays.

Mr. Voorhies then moved for the adoption of the section.

Mr. CLAIBORNE asked for the reconsideration of the apportionment of representation for the city of New Orleans, for the purpose of moving that the city be divided into nine representative districts, so as to admit of the third municipality being divided into three districts. This will be much more convenient than dividing that municipality into two representative districts.

Mr. CULBERTSON sustained the motion made by Mr. Claiborne.

It was reconsidered and amended as suggested.

Mr. DUNN gave notice that he would move for the reconsideration of the vote granting three representatives to the parish of Plaquemines.

Mr. O'BRYAN moved for the consideration of the vote upon the apportionment to the parish of Natchitoches, and asked for a dispensation of the rules.

Mr. KENNER objected to the dispensation of the rules.

The question was taken and it was decided in the negative.

Mr. GARCIA gave notice that he would move for the reconsideration of the vote granting but one representative to the parish of St. John the Baptist.

Mr. Garcia complained that great injustice had been done to that parish in the apportionment.

Mr. MARIGNY gave notice that he would move for the reconsideration in the apportionment to Point Coupee, for the purpose of giving two representatives in place of one.

The question then recurred upon the adoption of the section.

Mr. SAUNDERS said that it was obvious that the section met with the concurrence

of a large majority of the house. In saying that he would vote against it, he would state his reasons without argument. The subject had been thoroughly discussed. He would not add any thing to that discussion—it would be useless, and he would confine himself to an emphatic vote against the section. It met with his concurrence but in a single respect, and that was that it would put an effectual stop to further legislation. We have had enough legislation to last us half a century. A body composed of half French, half Spaniards, and half Yankees could do no harm in a session of but 60 days, and that only once every two years.

He considered that the principle adopted for the basis, was the worst of all principles—it was the most unfair—the most uncertain upon which our action could have been predicated. The worst basis upon which the wealth, prosperity and intelligence of the State could depend. That was his leading objection. He had hoped that the house of representatives would have been diminished instead of being increased. A house of fifty members would have been large enough to have excluded corruption, and would have been much more convenient for the despatch of business. Our own experience had demonstrated to us that this body, consisting of seventy-seven members, was too large. By the apportionment of representation in the house, and the proposed increase in the senate, the legislature would be composed of 130 members. If there was no other argument, the argument of economy ought to have great weight. But it was inexpedient—these bodies were unwieldy. They would be found fit for no practical purpose, and the only result would be, as he had before said, that the legislation would be impeded and arrested. This, he repeated, was some consideration with him. The whole thing was wrong. He was convinced that one man would more effectually represent the interests of the city of New Orleans than twenty, and the same remark would apply to the other parishes.

Mr. Culbertson: suppose that this representative was to get sick; what would you do then?

Mr. Saunders: I would wait until he got well.

Mr. Claiborne would state the reasons why he would vote against the section. He considered that the city of New Orleans was, in effect, limited as effectually as if an express restriction had been placed upon her in the constitution as was originally proposed. Each parish had arbitrarily been allowed one representative, without reference to any basis whatever. There were forty-seven members apportioned in this way. We had reached the number ninety-eight, within two of the maximum number to which representation was allowed. It was utterly impossible for New Orleans under any future apportionment to obtain more members than were at present allotted to her, whatever might be the increase in her population. The balance of the representatives, after giving to the small parishes one representative, would be absorbed by the larger country parishes that would get two and three representatives. It was therefore apparent that the city of New Orleans would never possess more than one fifth of the political power of the State, and there, after all, is the restriction against which the delegation from the city have contended.

But the apportionment is not only unjust in reference to the city of New Orleans; it is unjust in reference to the country parishes in relation to each other. In some of the country parishes the qualified voters will predominate, while in others, from its operative labor, taxation will predominate. Representation will increase in the former while it will decrease in the latter. The latter will bear the burthens of the government, and will be denied a voice in the government. It will be taxation without representation. The idea was shocking—taxation and representation should go together; they were inseparable. A mixed basis with electors and taxation would have been more just and equal in its operation, both in reference to the city and to the country parishes. The principle of this apportionment was then most unjust.

Another very serious objection that he had to it was, that the amity of representation in the city of New Orleans had been completely destroyed. It was cut up into minute fragments, against the will of the citizens, and with no other view than to divide and separate its interests, and to weaken the assertion and maintenance of

them. He would therefore vote against the section.

Mr. Lewis said that he would vote in favor of the section, although he did not approve of the measure in every particular.

Mr. Porter would vote against the section for reasons very different from those assigned by the delegate from New Orleans, (Mr. Claiborne.) He considered there were no restrictions upon the city of New Orleans, and he thought some restrictions were indispensably necessary for the protection of the country.

Mr. Ratliff would vote in favor of the section, but would join in a motion for the reconsideration in order to reduce the number of representatives to fifty. It was absurd to place the maximum at one hundred and then go as far as ninety-eight. Why did we not apportion one hundred at once, or make it ninety-eight. The yeas and nays were called for, and the following was the result.

Yeas—Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Cénas, Chambliss, Conrad of Orleans, Covillion, Culbertson, Derbes, Downs, Garrett, Guion, Hudspeth, Humble, Hynson, King, Labauve, Legendre, Ledoux, McCallop, McRae, Mayo, Mazureau, O'Brien, Peets, Preston, Prudhomme, Pugh, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Roselius, Soulé, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Splane, Taylor of Assumption, Voorhies, Waddill, Wederstrandt and Winder—50 yeas.

Nays—Messrs. Boudousquie, Claiborne, Dunn, Garcia, Kenner, Marigny, Roman, Saunders, Sellers, Taylor of St. Landry, Wikoff and Porter—12 nays.

Mr. Downs moved that the Convention take up the section in relation to the apportionment of representation in the senate; which motion prevailed.

The question pending when the subject was last before the Convention was the motion of Mr. Downs to substitute the report of the minority for that of the majority.

Mr. Guion said that he could not concur with either the report of the minority or the report of the majority of the committee. He would offer a new project, and would move that it be printed, and that the further consideration of the subject be postponed until Saturday.

The motion to print was carried.

Mr. Mayo had no objection to the printing, but he thought we might as well proceed with the discussion of the subject. He moved for a reconsideration of the vote postponing the consideration of the subject until Saturday. It was lost.

Mr. Benjamin moved to take up the article of impeachment.

Mr. Dunn thought it better to establish the judiciary first.

It was taken up.

The first section of the article on the subject of impeachment being under consideration,

Mr. Mayo offered the following as a substitute: "The power of impeachment for all officers, except clerks of court, justices of the peace, sheriffs, coroners, and all other parish officers, shall be vested in the house of representatives alone."

Mr. Mayo said, that the object of the substitute, as would be seen from its terms, was to change the mode of trying parish officers; to take that power from the legislature, and confer it upon the courts of the several parishes in which the officers resided, and where they had their residence.

There are many reasons which present themselves to my mind in favor of a trial by the courts, though I confess this subject has been suddenly and unexpectedly brought up, and I have not had time to prepare a substitute with as much care as I could desire, nor to arrange my ideas so as to present them to the Convention in as clear a manner as I ought. My object is to have a provision established that will insure justice to officers, and to the people, whose servants they are—which, I think, the provision reported is calculated to prevent. It is true, the present provision is in the words of the old constitution. "The power of impeachment shall be vested in the house of representatives alone." The effect of this provision has been generally to prevent justice. Officers, especially those who hold their offices for a short period, as sheriffs, are seldom sought to be impeached, when guilty of misdemeanors in office, on account of the great trouble and expense to the prosecutor, witnesses and the State, that would accompany the prosecution; and if charged before the le-

gislature, the prosecution is generally a political one, in which the conviction or acquittal depends upon the influence of the political parties in the legislature.

This is a kind of trial which of all others known to our laws, ought to be avoided. Officers, sir, it is well known, are generally just as good as other men, and no better. Why then should they not be placed upon an equality with other men, in the mode of administering justice to them? I confess, sir, that the reason why they should not, especially parish officers, is incomprehensible to me. All other men must have their rights of life, liberty and property, decided on by the courts. This is, it appears to me, the mode which is most likely to ensure justice to all. It appears to me, sir, to be peculiarly proper that officers against whom causes of complaint exist, should pass through the usual ordeal of being presented to the grand jury in the first instance. If the charge is thought to be well founded by the grand jury, and sufficient to justify them in finding an indictment, they will do so, and the case will be presented to the court and petit jury as criminal cases are for final trial. If the grand jury think no sufficient cause exists to put an officer upon his trial they will not find a bill, and thus the matter will end. The officer will be saved the mortification and infamy of being publicly put upon a trial without a cause. If, on the contrary, the accusation be presented to the legislature, the charge becomes one of notoriety, and whether true or false, must fix in the minds of the public a stigma upon the character of the accused, that it will take years to correct.

If in the event of a trial being had in the courts, a bill be found, the officer accused has the assurance of being tried by a jury of men with whom he is acquainted, and who are acquainted with him; they know and are qualified to judge from their knowledge of his general deportment of the motives by which he has been actuated in whatever he may be charged with doing, or omitting to do. If he is guilty, they will be as likely to award his justice as members of the legislature, who know nothing about him; and if innocent, surely he will be in but little danger from a jury, all of whom must concur to convict him.

Another reason exists for this measure, which I think is peculiarly entitled to consideration, which is, that the sessions of the legislature are to be biennial only. I believe it is generally desired by members of the Convention to limit the term of office of the parish officers to about two years. If so, and both the members of the legislature and parish officers come into office together, an impeachment of a parish officer could hardly ever take place, for they would hardly be guilty of a misdemeanor, and have a charge presented to the legislature within the sixty days, the time to which sessions of the legislature are limited; and if not then, and they hold their offices but two years, they will serve out their whole time, notwithstanding the most aggravated charges exist against them before the next session of the legislature will take place, and consequently there will be no means of reaching them whatever. I hope, sir, that the substitute will be adopted.

Mr. Dunn said that, as the chairman of the committee had not seen proper to take the floor, he deemed it his duty to reply to the arguments of the gentleman, (Mr. Mayo.) I consider, said Mr. Dunn, that the legislature is the proper tribunal for the trial of all public officers. As for the proposition of the gentleman (Mr. Mayo) that parish officers should be an exception to the general rule, I do not think it would work well. For example, take the office of sheriff. The sheriff is a most important public officer; a great deal, if not every thing in his official duties, depends upon his promptitude and stern independence; otherwise his duties would not be properly executed. It is a situation of great responsibility, and its incumbent should not heedlessly be exposed to the malignity of evil minded persons, who would be ready to get up a prosecution against him on account of his prompt discharge of his official duties. Proceedings might be instituted against him by such persons, with no expectation of procuring his conviction, but merely with a view of spreading their accusation upon record. It would be opening the door for the malicious. The argument of the gentleman that the trials of public officers for official misconduct, could be had in the same manner as in ordinary criminal cases, would not hold good for many reasons. The object in ordinary

cases is to maintain the supremacy of the laws, and to inflict the punishment which their violation deserves. There is no other motive. But if a public officer were submitted to the same kind of trial, upon allegations of misconduct, other considerations would enter largely into the investigation. It might be considered an object of paramount importance to convict him for the purpose of removing him and obtaining his office, whereas, in an ordinary prosecution for murder or larceny, no other feeling prevails but the desire to maintain the law. The provision under consideration would expose a public officer to the machinations of his enemies. The popular tide might be roaring against him, and at this unpropitious moment they would sacrifice their victim. They would raise the cry against him of mad dog, and in times of high excitement, he would be debarred the privilege of establishing his innocence. It will be recollected that it is not very long since several sheriffs in Mississippi resigned their offices, because they were threatened with being lynched if they discharged their duties. The same thing may possibly occur in Louisiana and ought there not to be some protection, for the independence of so responsible an officer. I would have public officers independent; not exposed to be assailed at every step, and to be placed under a criminal accusation at the mere will and pleasure of persons whose ill will they may have encountered. Malignant motives might lurk behind these accusations; they might be got up by an unsuccessful competitor. The object of a public trial is to obtain an impartial verdict. To place the accused beyond the influence of personal ill will. The house of representatives is most evidently fitted for the trial of public officers, who may have laid themselves open to the charge of dereliction of duty. And am I to be told that that enlightened body, combining the concentrated wisdom of the State, is less competent to try a public officer than the ordinary juries of the parishes. These jurors may be influenced by prejudice, passion or interest, in a matter in which they may be personally connected. If the only objection to the impeachment and trial by the legislature is the consumption of time, this is an objection of but little weight. The time of the legislature has heretofore been but little occupied with impeachments.

It is the business of the government to protect public officers in the discharge of their duties. Impeachments should not be easy. The bad passions of men were constantly at work. Man was a frail and wicked being. It was unjust to draw a distinction between officers of a higher and lower grade. The character of the sheriff was as dear to him as the character of the governor or the judges of the supreme court. There should be no distinction; we should mete out justice to all. What democratic principle authorized any such distinction. The same privilege was due to all alike.

Mr. Grymes was not prepared to say that he was opposed to this proposition, so far as it was intended to provide ways and means for the speedy trial of minor officers accused of malfeasance. But he had very serious objections to introducing this matter into this article. The power of impeachment resided alone in the house of representatives, and there it ought to reside. If the gentleman from Catahoula (Mr. Mayo) intended that the legislature should be invested with the power of providing by law for the trial of sheriffs and other parochial officers, I would have no objection. But I do not call that an impeachment.

Mr. Mayo said there appeared to be no difference in the object designed by him and the views expressed by the delegate from New Orleans, (Mr. Grymes.) The only difference was in the mode of effecting the object. He may have misconceived the term impeachment, but as he understood that term, it was the trial and conviction of a public officer for a misdemeanor while in office. If his proviso were adopted it would have the effect of relieving the legislature from the trial of cases where parochial officers were involved, upon charges of malfeasance. That appeared also to be the design of the delegate from New Orleans.

Mr. Conrad considered the system of subjecting impeachments to the house of representatives as very defective, and very objectionable. It was attended with great expense, great inconvenience, and great trouble, and was insufficient to secure the end proposed. It had found its way into

our constitution, and into the constitutions of other States, merely because it was accidentally embodied into the constitution of the United States. He said accidentally, because, in examining the proceedings of the federal convention, he found that in the three or four drafts that had been prepared of a constitution, impeachments had been invariably assigned to the judiciary department, and that the leading men in that convention, such as Hamilton, Madison and Pinckney, were in favor of confiding it to that department. How it came afterwards to be lodged in the senate, we were unable to discover from the debates in the convention, but it appeared that several States voted against it. The experiment has proved to be an unfortunate one, and whatever may be the intellectual superiority of the senate of the United States, it is one of the most inappropriate bodies that could have been selected for the purpose.

The increase in our senate would make it very unwieldly for such investigations. He (Mr. Conrad) would suggest as a better plan, that a provision be adopted directing that a commmittee of twelve members of the senate should be appointed, who, together with the judges of the supreme court, should hear and determine all cases of impeachments. This would secure a speedy trial, and would obviate many of the objections that exist against the present mode of proceeding.

Mr. Conrad then submitted the following substitute.

Impeachments of the governor, lieutenant governor or secretary of State, shall be tried by the senate and the chief justice of the supreme court, who, in such cases, shall preside.

Impeachments of the judges of the supreme court shall be tried by the senate.

Impeachments of all inferior judges and clerks of courts, shall be tried by the supreme court.

All other impeachments shall be tried by a committee of not less than members of the senate, presided by the presiding judge of the supreme court, for the time being.

Mr. Beatty had a few words to say upon the proposition now before the house. He was not in favor of any project that would require the impeachment or trial of inferior officers by the legislature. The proceedings in relation to them should be regulated by law. He was not prepared to fix upon any particular plan. The only difficulty, in his mind, was in reference to the inferior judges. In ordinary cases, if the grand jury found a true bill against a public officer, the proceedings might be had before an inferior court; and with regard to inferior judges, if they were charged with derelictions, the matter might be investigated by the superior court. He thought a larger discretion should be placed in the legislature. So far from impeachments being too easy, he thought it more likely that there would be greater difficulty in getting rid of improper officers, than retaining good ones.

Whereupon, Mr. Marigny moved that the Convention adjourn over until Monday next, on account of the religious services of Friday and Saturday. The yeas and nays were called for, and the motion to adjourn prevailed.

Monday, March 24, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Hon. delegate from Sabine, Mr. Stephens.

The journal of Thursday was read and approved.

Mr. Wadsworth rose to ask leave of absence for a few days for Mr. Leonard. He observed, that in order to gratify that gentleman's friends, and the members of the Convention, he would inform the house that though Mr. Leonard was wounded, yet he was not so mortally, and he would be able to take his seat in a few days.

Leave of absence was granted to Messrs. Mayo, Wederstrandt and Trist, for a few days.

Mr. Culbertson moved to insert on the journal the reason of an adjournment from Thursday over to Monday (this day,) which was, that good Friday and the day following, were rigidly observed by persons of the Catholic faith.

The motion to insert was ruled by the President as not being in order, and was withdrawn.

Mr. Wadsworth presented a letter from the English printers, praying for additional

compensation for the work done by them for the Convention.

On motion of Mr. Downs, the same was referred to the committee on contingent expenses.

Mr. Beatty gave notice, that he would on Thursday next, bring before the house a new basis for the future distribution of representation, without any reference to that at present adopted by the Convention.

Mr. Downs moved to take up the report on the senatorial representation.

The President said that the last subject under consideration, when the Convention adjourned, was the first in order, and should have the preference.

Mr. Claiborne coincided with the opinion of the chair, and hoped that the unfinished business would be proceeded with at once.

Mr. Downs moved to lay the unfinished business (the law of impeachment) on the table, subject to call, with a view to take up the senatorial representation reports.

The motion was then put, and the yeas and nays being called for, it was found that

Messrs. Brazeale, Brent, Burton, Cade, Cenas, Chambliss, Couvillion, Downs, Hudspeth, Humble, Hynson, Lewis, O'Bryan, Pects, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of East Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill and Wikoff, voted in the affirmative—27 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Claiborne, Conrad of Jefferson, Culbertson, Derbes, Garrett, Kenner, King, Labauve, Ledoux, Legendre, McCallop, Marigny, Mazureau, Roman, Sellers, Soulé, Taylor of Assumption, Taylor of St. Landry, and Wadsworth, voted in the negative—26 nays.

Mr. Walker would then in consequence, he said, of the thin attendance of members, give his casting vote in the negative, and the motion was lost.

ORDER OF THE DAY.

The report of the committee to whom was referred the article of the new constitution on impeachment.

First section. "That the power of impeachment shall be vested in the house of representatives alone."

Mr. Mayo on Thursday, offered as an amendment to the above: "That the power of impeachment, for all officers except clerks of courts, justices of the peace, sheriffs, coroners and all other parish officers, shall be vested in the house of representatives alone."

Mr. Soule said, that the latter clause of the amendment could not well be sustained there, as it would place the parish judge beyond the reach of impeachment. He would therefore move the adoption of the first section of the report from the committee, as it clearly concentrates the principle of impeachment in the house of representatives. By subsequent sections, the officers who may be impeached can be more easily defined, and the tribunals before whom they should be tried, can be also laid down.

Mr. Downs was opposed to laying the amendment on the table without giving the matter some consideration. It might be said, indeed it was so found, that in some cases the uncertain test of impeachment was found to be a failure of justice. But it might be amended so as to obviate such a result. It was perhaps, going too far not to enumerate any particular officers, and might become a dangerous principle; but it is well known that sheriffs have been before now impeached, and that no good was ever derived from the process, but on the contrary, the State was put to much expense, and without any good result being obtained.

Mr. Soule perfectly agreed with the views expressed by Mr. Downs; but repeated that his object was merely to let the first section contain the principle that impeachment was to be concentrated in the legislature, then it will be easy to define how it is to be applied and regulated.

Mr. Miles Taylor remarked, that he considered the first step to be, to invest the power of impeachment in the proper place; the object was, as all knew, to insure good government. It is a principle adopted by other States, as well as by the general government, and he was decidedly of opinion that it should be invested in the house of representatives, without any restriction. That is the grand inquest of the State, and when the representatives of

the people think any officer has behaved improperly in the discharge of his official duty, it shall and ought to be their right to declare it. Then if he is convicted on such charge by two-thirds of the senate, he shall be discharged. The law of impeachment is to reach and punish acts, that under ordinary legislation cannot be reached. It is easy however, to obviate all possible inconveniences by granting to the legislature the power to try by such process as they may deem fit, other officers than those to be named in this law. We have a law now, that when a justice of the peace or a parish judge shall extort large fees in his office, he may be impeached, and tried by the district judges. But it has been known that in many instances, the district judges have felt unwilling to remove from office judges and justices who have been guilty of high misdemeanors. And again, there are a multitude of inferior officers, who often commit malfeasances, and for these proper provisions, should be made by the legislature, that such acts be brought before competent tribunals, who would punish such acts. He had no objection to the unrestricted power being vested, therefore, in the house of representatives, and afterwards introducing general provisions.

The PRESIDENT said that if the section was taken up in division, he thought it would save much time and trouble.

Mr. SOULE moved to lay Mr. Mayo's amendment on the table. Carried without dissent.

Mr. VOORHIES moved to add after the last word in the first section, the words "subject to the modifications hereinafter to be made."

Mr. BEATTY considered the addition as being useless, as the powers and modifications of the bill could be clearly defined in the subsequent sections.

Mr. BRENT was in favor of a proviso by which the trial of inferior officers would be held before the district court.

Mr. BEATTY was as much in favor of the qualifying clause as Mr. Brent; but it will come better within the province of the legislature to make such a provision, than in that of the Convention.

Mr. LEWIS said that as far as practicable every section of the article would be construed with reference to each other. He understood impeachment to be a charge or accusation brought against an individual, and, therefore, the power of impeachment is the power to accuse, and, consequently, is wholly distinct from trial or judgment.—The object of impeachment is to reach crimes that cannot well be come at under ordinary legislation. Leave, therefore, the broad power of impeachment in the house of representatives alone, and then come to definitions. He considered the addition offered by Mr. Voorhies as wholly unnecessary. He did not believe that the power of impeachment, which is the accusation of a public functionary, could be subjected properly to strict modification; the principle must be a general one in the constitution. It is so in the constitution of other states in the Union; it is contained in that of the general constitution of the United States, and it may be found in the house of commons of England. He was opposed to the introduction of any modification of the section, because none could be made with direct reference to any result. Mr. Voorhies' amendment was then put and lost. The adoption of the section was then called for, and being put, was carried unanimously.

Mr. BENJAMIN offered, in the absence of his colleague (Mr. Conrad, of New Orleans) the following, as a substitute for the second section of the article reported by the committee:

"Impeachments of the governor, lieutenant governor and secretary of state shall be tried by the senate and the chief justice of the supreme court, who, in such cases, shall preside."

Mr. BEATTY moved to insert "attorney general," after lieutenant governor, in the substitute; and his amendment was adopted.

Mr. DOWNS moved to insert "state treasurer," after "secretary of state," in the same section; to which there was no objection offered.

Mr. CENAS moved the insertion of the words "or senior associate judge of said court, after "chief justice," &c., as the latter officer might be, under certain circumstances, rendered ineligible to preside. This amendment was also adopted.

Mr. DOWNS moved to insert after the words "state treasurer," in the section, "and district judge."

Mr. BRENT was of opinion that after descending from the judges of the supreme

court, all other officers should be tried by the same process as ordinary criminals.

Mr. Benjamin was opposed to the amendment. He thought that the independence of the district judges could be as well maintained by trial before the supreme court, as before the senate. Impeachment cannot be made against them but by the grand inquest; and those charges which are likely to be preferred can be better judged and appreciated by men well versed in judicial proceedings, such as the judges of the supreme court, than they possibly could by the senate, a majority of whom in all probability are but little learned in those matters. Besides this, an expense of two or three hundred dollars a day pending a trial before the senate, is entailed upon the state; whereas, the supreme court judges being salaried officers, a trial before that body will be comparatively trifling as to the expense. With these views, he was satisfied that the supreme court was a proper tribunal for the trial of district judges.

Mr. Downs could not agree with the views of the last speaker for the reasons laid down. He did not feel satisfied that important trials arising from impeachment might be committed to the judges of the supreme court. It was well remarked by an eminent and talented man (Judge Story) that the trial by impeachment by the senate, which at first appeared to be an anomaly, was found a great safeguard in political affairs. It was found of great value in other countries—in the house of lords of Great Britain, in the United States senate; impeachment involved, generally speaking, political offences; and it is well understood that the members of a senate are better practically acquainted with politics than could be the bench of the supreme court. Thus, charges arising from political excitement against any individual are seldom brought by that party to which he belongs; and if we constitute a high judicial court a tribunal for the hearing of political cabals, we shall convert it into an arena of politics; no matter what the results may be, one party will applaud, another will be sure to condemn. The supreme court should be thought far beyond the reach of all political feelings. He was aware that improvements were necessary, but for all other officers, a general clause, he thought, might be introduced.

Mr. Lewis argued in favor of the independence of the district judges being fully maintained. They had trials of great consideration and importance brought before them, and generally were appealed to as a final resort; therefore it was necessary that they should be placed beyond the reach of frivolous and harrassing pursuits, and be rendered just as independent in the discharge of their official duties as the judges of the supreme court. He hoped the Convention would continue to maintain the same principles which had governed the citizens of Louisiana since she had been erected into a State.

Mr. Downs moved to add "judges of the commercial and criminal court of New Orleans, and judges next in jurisdiction to the supreme court."

After some modification, Mr. Downs' amendment was inserted in the section; after which it was adopted, as follows:

Sec. 2. Impeachment of the governor, lieutenant governor, attorney general, secretary of State, State treasurer, judges of the criminal court, and judges of courts next in jurisdiction to the supreme court, shall be tried by the senate and the chief justice of the supreme court, who in such cases shall preside, or in his absence, the senior associate judge of said court.

Impeachment of the judges of the supreme court shall be tried by the senate.

Mr. Beatty moved to add another clause: "*Provided*, that the legislature shall enact a law for the trial and removal from office, of justices of the peace, and all other officers of the State, by indictment or otherwise."

Mr. Downs wished to add an amendment to include the "punishment," as well as removal of offenders.

Mr. Beatty having accepted the amendment offered by Mr. Downs:

Mr. Taylor of Assumption, said he was more in favor of the original suggestion. The object under consideration was solely the removal from office of bad officers; the legislature could apply other punishment at any time, when the offence required it. A high judicial functionary when impeached was liable to be removed from office; but if his acts were criminal, he would be subject to the ordinary tribunals of the coun

try afterwards. He thought this would be making a distinction highly necessary between inferior and higher officers.

Mr. SELLERS inquired if this impeachment were to extend to military as well as civil officers?

Mr. TAYLOR of Assumption, moved to strike out "punishment," and add to the clause the words "for misdemeanor in office."

Mr. CONRAD thought that "punishment" was unnecessary; the removal from office was all that was now required. Crimes were punishable by law, and there is no law to prevent a judge from being punished, no more than any other individual.

Mr. DOWNS contended that the amendment offered by him was an important one. He could well imagine cases where removal from office would be very inadequate to the offence that might be complained of. Cases where great oppression might be exercised by sheriffs or others: and the main reason why he would support the introduction, was that it would more fully secure the accountability of all officers.

Mr. TAYLOR of Assumption, said that the class of officers alluded to were now punishable by law. Justices of the peace were punished if they exacted high or exorbitant fees, and there were a variety of other acts that were already provided against in the statutes. In this case he did not see how they (the Convention) could go beyond the "removal from office."

Mr. EUSTIS was in favor of including the power of punishment, because the criminal powers of the State extends only to a class of offences which are defined, where the laws of impeachment is intended for a class of offenders which cannot be defined; and he would, therefore, instead of bringing an offender before one tribunal for removal from office, and sending him before another for the crime, vest the whole power in the one, and include both punishment and removal.

Mr. CONRAD thought the amendment of Mr. Downs not only useless but dangerous. If, as was observed, the law of impeachment is confined to offences which are not susceptible of strict definition, it is proper that judgment shall not extend beyond removal from office. If a man is to be punished, who commits a crime, is it not well known that no one can be tried and punished for an offence not defined by law beforehand? It would be a subversion of the principles of free government, to punish a man for an offence not laid down in the law. The legislature are prohibited by the constitution from enacting an *ex post facto* law. The constitution of the United States contains the same principle. He hoped that the law of impeachment would not be permitted to extend beyond the removal from office.

After some observations of Mr. BEATTY, in the affirmative, the question to strike out "punishment" was put, and lost; and the clause was adopted as follows:

"The legislature shall provide by law, for the trial, punishment and removal of all other officers of the State, by indictment or otherwise."

Mr. CENAS moved the following as a substitute to the report of the committee, which was adopted as follows:

SEC. 3. All officers against whom accusations of impeachment shall be preferred, shall be suspended from their office during the pendency of their trial.

To which was added, on motion of Mr. Benjamin:

Provided, That the appointing powers may make a provisional appointment to fill such vacancies until the decision shall be made on such impeachment.

On motion of Mr. DOWNS, the first clause of section four of the committee report, "the governor and all the civil officers shall be liable to impeachment for any misdemeanors in office," was stricken out, and the remainder of the section was adopted:

SEC. 4. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor or trust under this State; but the parties convicted shall nevertheless be liable and subject to indictment, trial, and punishment according to law.

ORDER OF THE DAY.

Section ten of the majority report on the senatorial representation.

The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, &c.

Mr. DOWNS moved to take up the report

of the minority as a substitute for that of the majority.

Mr. Beatty moved the following resolution: That the State be divided into —— districts, each to return two senators.

Mr. Downs moved to strike out "eight" in the section.

Mr. Conrad proposed an adjournment in consequence of the absence of some delegates on professional engagements. The motion was lost.

Mr. Beatty renewed his motion and proposed sixteen districts. He proposed this number in consequence of the present practice, well known, that exists, of senators controlling the appointments by the executive made in their districts. Many other abuses, now prevailing, would be removed by this arrangement.

Mr. Miles Taylor said that although the subject had been a good deal discussed before, yet a part of what had been said on that occasion might have been forgotten. As he was one of the majority committee who reported the proposed number, (eight) he would wish to make a few remarks in support of it. He considered that correct principles and sound policy require that the State should be divided into large districts, and by an attentive examination of other constitutions this view will be clearly sustained. The great object of legislation is to secure wise action on the part of the members comprising the legislative body, and in view of that opinion it has been ordained that there shall be two distinct bodies. The senatorial branch is designed to act as a check upon the lower house, and in order to secure great and wise deliberation; to prevent the passage of laws which may have been adopted in the house owing to the peculiar construction of it, and when only a minority of the people were in favor of them; because it often happens that a majority of the members have been elected by a minority of the people, owing to the division of the electoral districts, then therefore this check becomes eminently necessary. This may not be secured by electing senators from parishes, for then the same constituencies will be electing both senators and representatives in the lower house. The most obvious remedy is, therefore, to throw several parishes into one senatorial district. At least let each of the senatorial be comprised of two electoral districts. By this means will be secured the more equal representation of the people, as parishes of different political complexion will be merged in one body when electing their senators. This was no novelty; large senatorial districts have been adopted in New York, in Michigan, and elsewhere; if lessons are to be had from experience, he would only point to the New England States. In seventeen States the senate is returned by a different constituency to that by which the house of representatives is elected, and that was the principle which he wished to see preserved here. When the subject came up regularly before the house, he would, however, be prepared more fully to investigate the matter. At present he trusted that the motion would not prevail.

The motion to adjourn was then renewed and carried, till to-morrow at 10 o'clock.

Tuesday, March 25, 1845.

The Convention met, and its proceedings were opened with prayer.

Mr. Boudousquie asked and obtained leave of absence for Mr. Chinn, confined to his room by illness.

ORDER OF THE DAY.

The Convention resumed the consideration of the project reported by the majority of the committee on the legislative department, providing for the apportionment of the senate, together with the project of the minority of the same committee, offered by Mr. Downs as a substitute for the report of the majority of the committee.

Mr. Guion had presented the following as a substitute for both reports:

The Senate shall consist of thirty-two members, to be elected for four years, by persons qualified to vote for representatives, and the apportionment of Senators shall be as follows, to wit:

The parishes of Plaquemines, St. Bernard and Jefferson, together with that portion of the parish of Orleans on the right bank of the river Mississippi, shall constitute the first district, with three senators.

All that portion of the parish of Orleans lying on the left side of the river, shall constitute the second district, with four senators.

The parishes of St. Charles and St. John the Baptist, shall constitute the third district with one senator.

The parishes of St. James and Ascension shall constitute the fourth district with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall constitute the fifth district, with two senators.

The parishes of Iberville, West Baton Rouge and Pointe Coupée, shall constitute the sixth district, with two senators.

The parishes of West Feliciana and East Feliciana, shall constitute the seventh district, with two senators.

The parish of East Baton Rouge, shall constitute the eighth district, with one senator.

The parishes of Washington, St. Tammany, St. Helena and Livingston, shall constitute the ninth district, with two senators.

The parishes of Concordia and Tensas shall constitute the tenth district, with one senator.

The parishes of Madison and Carroll, shall constitute the eleventh district, with one senator.

The parishes of Avoyelles and Rapides, shall constitute the twelfth district, with two senators.

The parishes of Catahoula, Caldwell and Franklin, shall constitute the thirteenth district, with one senator.

The parishes of Ouachita, Union, Morehouse and Jackson, shall constitute the fourteenth district, with one senator.

The parishes of Natchitoches, Caddo, Sabine, De Soto and Claiborne, shall constitute the fifteenth district, with three senators.

The parishes of St. Landry and Calcasieu shall constitute the sixteenth district, with two senators.

The parishes of St. Martin, St. Mary, Lafayette and Vermillion, shall constitute the seventeenth district, with two senators.

The question in order was the motion to strike out "eight" as the number of districts, (which motion had been made the preceding day,) from the report of the majority of the committee.

Mr. Guion said, that having submitted his proposition as a substitute for the reports both of the majority and minority of the committee on the legislative department, it became him, in a few words, to explain his views in relation to the several propositions. He was opposed to the project of the gentleman from Assumption, (Mr. Taylor) because the districts were too large. It approximated too much to the general ticket system, which formerly prevailed in several of the States for the election of members to Congress, and which had been repudiated by almost every State in the Union. He had still another objection to it. It commingled different populations, different interests, and different feelings; which were irreconcileable. The proposition of the minority of the committee, presented by Mr. Downs, was objectionable because the districts were too small. He could concur in neither of these propositions, and hence he had embodied his views in a separate proposition. In making it out, he had kept in view three elements, which he deemed indispensable to the formation of the senate. They were population, territory, wealth or taxation. He had endeavored to bring his project as near these principles as possible. There might be, and were probably, errors in it; they were open to amendment. But as far as his vote went, he could not consent to any other legislation than one that combined territory, population and wealth.

Mr. Miles Taylor had a few words to say in reply to the gentleman from Lafourche (Mr. Guion) in respect to what that delegate calls the general ticket system. He dislikes it, he says, because it approximates to the general ticket system which congress has repudiated. I admit that congress have legislated so as to prevent the election of its members by the general ticket system. But the objection did not grow out of any vice inherent in the general ticket system. The measure was adopted to protect the small States from the combined action of the larger States. The representation of the several States being unequal—some of them were so large as to be entitled to forty representatives, and others were so small as to be entitled to only one. A number of the States elected their representation in congress by general ticket—for example: Georgia, Alabama, and New Jersey. These were States of a medium size, and were undivided in their representation on the one side or the other of any political question. This gave them a preponderating influence over States where the district system prevailed, and the larger States in order to maintain their

weight would have been induced to adopt the same system; the result of which would have been that a majority of but a single vote would have returned the forty representatives to which the State of New York was entitled. The same would have been the result in Pennsylvania, and the other larger States, and they would have controlled the legislation of the country in favor of the one or the other of the political party which may have obtained the local majority. Congress were not vested with the power of placing the States upon a perfect equality, by reducing the larger States to a size bearing a tolerable proportion with the smaller States. The only power possessed by congress was to divide or district the States so as to preclude a concentration of their power. The circumstances here are essentially different. We can effect the same object by more direct means by equalizing the senatorial districts, which congress had not the power to do in reference to the States in their representation to that body.

There can be no doubt that large districts are more favorable to ascertaining the will of the majority. By the district system as applied to congress, it may happen and has happened, that a minority in the State, by a peculiar distribution of the district, have elected a majority of the representatives. It will be seen that there is nothing in common with the reasons that induced congress to direct elections to be held by districts, and the motives which should govern us in apportioning the representation to the senate. Moreover, congress legislated in reference to a different body than the one which now claims our attention. By throwing the State into large districts, we approximate nearer to the will of the majority. The conflicting majorities in the several parishes neutralize each other, and the result is determined by the aggregate vote of the several parishes. But, Mr. President, the delegate from Lafourche (Mr. Guion) has assumed another ground of objection. He says that the report of the majority, throws together people of different interests and of different feelings. If that gentleman will take the pains to examine the report, he will find that he is in error. With the exception of but one single district, the districts are formed of parishes having a great similarity of interests, and in the district in which perhaps there is some apparent dissimilarity, it is quite possible that the interests of the component parts will become identical.

The first district embraces the city of New Orleans. I imagine there is a perfect identity of interests in that district.

The second district is composed of sugar parishes.

The third district is composed of sugar parishes.

The fourth district is composed of sugar parishes, but cotton may be cultivated.

The fifth district is composed of cotton parishes.

The sixth district is composed of cotton parishes.

The seventh district is composed of cotton parishes.

There is but one district in which are combined parishes of opposing interests—that is parishes which cultivate different staples. It embraces Iberville and Avoyelles—some sugar parishes and some cotton parishes; but it is not certain that sugar will not become the sole staple in that district. At any rate, this is the only district liable to the gentleman's objections. I doubt whether any plan could be suggested that could throw together local interests with greater uniformity than the one under consideration.

Mr. Downs said he hoped that the *project* advocated by the gentleman who had just resumed his seat, and who had announced himself as the author of the *project*, would not prevail. If the gentleman's argument were good, why not extend it further, and instead of dividing the State into eight large senatorial districts, say that there should be but one single district, comprising the whole State, and that the members composing the senate shall be elected by general ticket? If it be a good rule, it should operate to its full extent. Perhaps the gentleman thinks that like taking arsenic for the chills and fever, it is excellent in small quantities. It reminds me, said Mr. Downs, of an anecdote I once heard, of a person who took a dose of medicine without knowing of what it was composed; he took a small dose at first, and he thought it done him so much good that he would take a double dose, in order to perfect the cure; it came near killing him.

This, I presume, may be the case with the gentleman's (Mr. Taylor's) proposition. If it be so good, we had better take a double dose.

I cannot see why local interests should not be immediately represented. The closer you can establish the connection between the representative and the constituency, the nearer you approach the perfection of the system. If the proposition of the gentleman (Mr. Taylor) were to prevail, it might happen that a man would be sent to the senate from a district where every voter in the parish of his residence might have voted against him, and that for particular reasons which would operate in the remote parishes. Mr. D. instanced the formation of his own senatorial district, in the report of the majority, in illustration, it was composedd of remote parishes; it might be in the power of the parishes on the Ouachita to elect the senator, or might be in the power of the parishes adjacent to the Mississippi. In either case it would be unnecessary for th candidate to consult any but the predominating influence. Either you must place the representative in immediate contact with the represented, or it will be tantamount with those not in immediate contact, and who do not possess a direct influence, to have no representative at all. Take for example the parishes of Avoyelles and East Baton Rouge. If East Baton Rouge have the preponderating influence, is it to be presumed that she will elect a man residing in Avoyelles, however good a man he may be to represent her interests? Or can it be presumed that such a person can represent her interests as effectually as one of her own local citizens, who is familiar with all her wants? For all practical purposes, the remote parish having the minority of voters, might as well not vote at all. According to the distribution of districts as proposed by the delegate from Assumption, (Mr. Taylor) it would be necessary only for a candidate to consult and obtain the favor of the voters residing in the parish that combined the majority of the votes; as for the smaller parishes, he might treat them with the utmost indifference. For myself, were I to offer in such a district, every voter in the parish of Ouachita might vote against me, and still I might be elected. I might tell the people of Ouachita to go to the devil, for there were enough votes in Catahoula to elect me. Such a system would be intolerable, and although there were good things in the constitution, it might so exasperate the people that they might reject it upon that ground alone. I hope it will be struck out. I am glad to be undeceived as to the paternity of this *project*. I had supposed that it emanated from the gentleman from St. James, (Mr. Winchester) and I must confess that I was much perplexed, how one whose views were like my own, more practical than thoeretical, could have devised such a plan. It does not belong to that gentleman, but comes from one who is remarkable for his novel theories. But come from where it may, I am opposed to it, and I trust it will be thrown aside.

Mr. Miles Taylor said he was unwilling to trespass upon the attention of the Convention; but inasmuch as this obnoxious project has been referred to me for its paternity, I shall say what occurs to my mind in support of it. What the gentleman from Ouachita (Mr. Downs) says about its being rejected, may very well happen; but its rejection will not, I opine, determine it to be a bad system. It will not show it to be impolitic—it will not determine that its adoption would not have been advantageous to the State, and subserve the interests of the people. That delegate says I am a theorist. True, it may be, that I entertain some views peculiar to myself.—But that is no reason why a proposition I may offer should be rejected, when it is in consonance with the truth, and sanctioned by experience. Surely, it should not be rejected because the gentleman from Ouachita (Mr. Downs) may imagine that I am a theorist! What are we aiming at by our actions here to promote the public good? If we parcel the State into petty districts, we place these districts in possession of certain cliques—we make them the arena for intrigue. Such a proceeding, would, I think, be most unfortunate. Small bodies are accessible to improper influences.—They will not do. I am one of those that always have believed in public virtue, and that the people act for the public good. If you make the district so small, you will enable men of but small abilities to make personal solicitation to the voters, and to place their hope of success upon the art of touch-

ing the feelings, in touching the prejudices, and in combining the petty partialities. If the district be large, the aspirant will rely upon the weight of his character —it will preclude personal solicitations— he will rely upon his merits; upon his abilities. This is the policy I would support. But the *projet* of the delegate from Ouachita(Mr. Downs) affords ample space for the exercise of petty arts, and will enable improper persons to exercise a controlling sway upon our legislation. In large districts the popular favor will only be attained by those who have become conspicuous by their merit—who have won the public confidence. In small districts it is true the candidate may be personally known; but his capacities to serve the people may not be known. We meet, in the ordinary course of life, with persons with whom we may become intimate to some extent, and yet not know their capacities. That would be the kind of knowledge which would prevail in small districts. In large districts the people would not be unacquainted with those offering to serve them. It is true, they may not have met at each other's houses—they might not have met at taverns, at drinking establishments. But before being presented as candidates they would have made themselves known— they would have made their names familiar,and if they were suitable, they would be chosen. The people in the district would be acquainted with them, as the people of the whole State are acquainted with the candidates for governor, or in the particular congressional district with the particular candidate for congress. That is the only information that would be useful or important to enable the people to select proper agents. It is not to gratify personal feeling—not to exalt a man simply for the purpose of exalting him; but it is to secure such representatives as are competent to render effective service to the State, and to contribute to her prosperity by a wise policy.

The delegate from Ouachita has assumed one or two cases to exhibit the monstrous character of this *projet*. He supposed that in his district under this projet he might be voted for and sent to the senate by the majority in the district; and yet, knowing that he was independent of the wishes of the people of the parish of Ouachita, he might disregard their wishes. I consider that he would not be the representative of the peculiar people of Ouachita; but that he would represent the people of the whole district. If in the discharge of his duties some peculiar local interest in that parish should conflict with the general interest, and he should prefer the general interest to the local interest, he would do right—he would be acting conscientiously. But if he did so merely because he was opposed to the people of Ouachita, he would find that he could not violate his public duties with impunity—that the majority in the other parishes would be ready to unite with the people of Ouachita in disapproving of his course, and that he would be left out. Whether the district be large or small, the majority must still govern, and the result would be the same as regards an unfaithful public officer.

The delegate from Ouachita(Mr. Downs) told the Convention a story illustrating the evil character of this projet. He said, before introducing it, that if the principle were good, we should elect all the members of the senate by general ticket. No doubt he assumed this position so as to illustrate it by his anecdote. It certainly told against himself—a district of one-eighth of the State would not surely be obnoxious to the objections which exist against a district comprising the whole State. Like his dose of the fever and ague, if carried to an extreme, it would kill the patient. To a reasonable extent it would operate beneficially; but if it were doubled, trebled or quadrupled, it would prove deleterious—his anecdote can have no other application than that.

I cannot agree with the gentleman (Mr. Downs) that the larger parishes would monopolise the selection of the member of the senate. The mass of the voters would be less solicitous about the residence of the candidate than in reference to his peculiar fitness for the station. In the senatorial district of Lafourche, as heretofore constituted, there are three large, populous parishes; and yet the senator has been invariably selected from the smallest parish— the selection has been made on the ground that the person so selected was best known and most popular. It has been wise as judicious, and has therefore been concurred in. I conceive that it would not be be-

cause a man resided in Ouachita or Catahoula that he would be elected from the district embracing those parishes; but because he was best known, or better qualified to act for the public good.

Mr. Porter said that he would vote in favor of the motion to strike out the seventh district, which embraced a distance from the Arkansas line to the Gulf of Mexico. It comprised remote territory, between which there was no similarity or identity of interest. For example, from the northern part of Caddo, or Claiborne, to the south-east part of Calcasieu, there were about three hundred miles.

What identity of interest could be supposed to exist between that parish and the parishes on Red River. This is the first time that I have ever heard the principle innunciated, that there should be no identity of interest between the representative and the represented. It is urged covertly, for those who would carry it out, do not dare to avow it distinctly. I consider it a novelty. The gentleman from New Orleans (Mr. Conrad) said that the gentleman from Ouachita (Mr. Downs) charged him with a novelty in changing the districts, from seventeen to eight; he said the gentleman (Mr. Downs) was making a great change from the principle of the old constitution, in proposing to make thirty or thirty-two districts; and that eight is nearer to seventeen than thirty or thirty-two. By the old constitution, one member is allowed to each senatorial district; the increase in population has been immense, but instead of increasing the number of senatorial districts to keep up with that increase, and with the settlement of more extended territory, we are asked to reduce the districts to one-half. The population of the whole State in 1812, was less than one-half of the city of New Orleans, at the present time. If this proposition be seriously entertained, it must be on some very novel principle. One gentleman (Mr. Taylor) says that we ought to take experience as our guide. I am glad to hear that gentleman refer to precedent, because I think that his position is not sustained by such a reference. I will take occasion to examine, as briefly as possible, the constitutions of the several States. There are but three that hold the doctrine advocated by the gentleman: to begin with Maine—In Maine, one senator is apportioned to each district. In Massachusetts, the number of counties are added together, where there are not numbers sufficient to give one representative in the senate. In New Hampshire, one senator from each district. Vermont is not divided; twelve members elected from the State at large. Rhode Island, one senator from each town or city in the State. Connecticut, no district; twelve members. New York four senators from each district. This is the only State where we meet with large districts. In relation to Massachusetts, there is only one exception, and that is the district of Nantucket, composed of Nantucket and an adjoining county; every other county is a district in reference to Massachusetts. The gentleman has signally failed.

But to resume the examination of the constitutions of other States. New Jersey, each county shall elect one senator. Pennsylvania shall not be laid off to elect more than two senators, except in reference with the city of Philadelphia. Delaware, three senators from each county—the senators may be increased, but not the districts—each county is a district and cannot be divided. Maryland, (old constitution) two senators from each county. (New constitution) one from each county, and one from the city of Baltimore. Virginia is divided into thirty-two senatorial districts, one member from each. North Carolina, one senator from each county in the State. South Carolina, one senator from each district, except Charleston. Georgia, one member from each county. Kentucky, the same number of senatorial districts shall be established as there are senators in the State. Tennessee, each district shall have one senator. Indiana, each county forms one senatorial district; the largest district is entitled to four members. Louisiana, each district shall have one senator. Mississippi, the senatorial districts shall remain as fixed by law. Illinois, one senator to each district. Alabama, each district is limited to one senator and no more. Michigan elects by large districts. Arkansas, each county is a senatorial district, according to number.

Where now stands the gentleman's rule. Here, said Mr. Porter, I hold in my hands the collected wisdom of the several States of the Union in reference to their local

government, and only in three States does the gentleman's doctrine receive the slightest countenance; in all States the very contrary system prevails.

I did not expect to say any thing upon the subject, and would not have troubled the Convention if the attempt had not been made to create large districts, and which attempt has been urged with great vehemence. If you combine, for example, the Ouachita parishes and those upon the Mississippi, you attempt to embody distinct and somewhat different local interests. Either the parishes in the one section or in the other will have the ascendancy, and will pay no attention to the views of that portion of the district which embraces the minority. There is one clear and evident principle, the representatives and the constituency must be identified; if you destroy the identity you destroy, at the same time, the responsibility.

Mr. Miles Taylor rose to correct a misapprehension that appeared to exist in the mind of the gentleman from Caddo(Mr. Porter) in relation to what he (Mr. Taylor) had said yesterday. He was not wedded to the allotment of particular parishes to particular districts. He was in favor of the principle that the constitution of the senate should be different from the constitution of the house of representatives. It was intended that they should operate on each other as a check, and therefore it was essential that they should vary in their formation. The senatorial districts and the representative districts should not be identical, and to prove that his position was sustained by precedent, he had referred to the constitutions of several of the other States, and particularly to the New England States, as showing that the composition of the upper and lower houses of their legislatures were materially different. The quotations of the gentleman from Caddo sustains that view of the case.

Mr. Porter read from the report of the minority of the committee, to show that according to that report the formation of the senate was entirely different from the formation of the house. It is, said Mr. Porter, precisely what the gentleman wants.

Mr. C. M. Conrad said he would move to strike out "eight" from the report of the majority of the committee. He considered the division of the State into eight districts to be too small. The proposition of the gentleman from Ouachita (Mr. Downs) to divide the State into thirty-two districts was on the other hand, too great. He thought in this matter, as in many others, the truth lay between the two extremes. He could not concur with the delegate from Ouachita, that a good principle should be carried out to its utmost limit. It was more politic to limit such principles within the range of experience. More mischief had, in his opinion, grown out of the attempt to carry good principles to an extremity, than had arisen from bad principles. He argued that there should be an essential difference in the formation of the senate and the formation of the house of representatives. The senate was designed as a check upon the house of representatives; the latter was the immediate echo of local interests, but the senate should be the exponent of the will of the aggregate people of the whole State—the guardian of the interests of the State, It had nothing to do with mere local matters. These were properly within the functions of the immediate representative in the house of representatives, and it was his duty to promote these interests in that body. The senate participated with the executive in making all the appointments for the State. According to the old constitution, they participated in the selection of the members comprising the third department of the government—the judiciary, We have not yet consulted upon the reorganization of the judiciary, but if any thing like the present system is to be maintained, it is obvious that the senate will continue to have very important functions to perform.

In support of his views, Mr. Conrad said he had high authority. The gentleman from Ouachita (Mr. Downs) had spoken in terms of great praise of the eminent abilities which distinguished the services of Mr. Wilson in the federal Convention. That delegate, I must say, said Mr. Conrad, did no more than justice to that distinguished individual.

[Mr. Conrad here read extracts from the remarks made by Mr. Wilson on the composition of the senate in the federal Convention.]

As for the idea, said Mr. C., that the large parishes in the district will domineer over the smaller parishes, it is illusory.

Nothing of the kind will happen. They will not monopolize the senatorial delegation to themselves. The fact that the city of New Orleans is divided into three municipalities, and entitled to ten members to the house of representatives, have invariably, by common consent among themselves, apportioned the representation to the local subdivisions, and that with a great deal of liberality and fairness, is a proof that the disposition to monopolize does not exist. An illustration of the fact that no such sectional feeling exists, is found in the composition of the delegation to this body from the city. It so happens that one of the largest divisions of the city—the second municipality—has not a member that resides within her limits, and yet there were residents of that municipality who were candidates.

If you divide the State into small districts, you open the door for petty intrigues and petty acts. You will have small districts and small men. Mr. C. declared himself opposed to eight districts and to thirty-two districts. He would sustain seventeen districts. That was his favorite number, because it was neither too large nor yet too small.

Mr. Benjamin said he conceived it would facilitate the settlement of the question to take up the report of the majority of the committee, as the basis for the action of the Convention. It had made a fair and equitable division of the political power of the State into eight parts. That point, the only one of great difficulty, was in his opinion, settled by the report. The remainder was only a matter of convenience and of details. We have here settled the principle. If any of these districts desire to be sub-divided, it can be done. He had made a synopsis of the various propositions, and he found that there was not any very material difference in the distribution of the political power. According to the project of the senator from Lafourche, (Mr. Guion) and the project reported by the majority of the committee, the city is to have four senators, and lower Louisiana as far as Terrebonne, eight. The proposition of the delegate from Ouachita, (Mr. Downs) gives to the city four members—the only difference between his project and the others, is in two points; instead of giving eight delegates to lower Louisiana, he gives seven, and takes the remaining one and transfers it to the northwest; the second difference is in this, that in place of giving the sugar parishes of Attakapas and Opelousas four senators, he gives them three, and transfers the one withdrawn to the parishes of Natchitoches and Rapides. The question then presents itself, shall lower Louisiana have seven senators as proposed by the delegate, [Mr. Downs] or shall she have eight, as in the other reports?

The next question is, shall the Attakapas and Opelousas parishes have four senators or three? As soon as these questions shall be resolved, the whole difficulty is at an end. The reports all concur as to the principle; and with reference to the size of the districts, the delegations for them can decide whether they ought to be divided. In reference to the district spoken of by the delegate from Caddo, I am ready to admit that his arguments have convinced me that that district embraces territory and interests that ought not to be commingled together; and I am disposed to vote in favor of dividing it. And too, with any other district, which it may be proper to divide for similar reasons. By pursuing the course I have suggested, we can get through by the hour of adjournment, and shall have satisfactorily settled the apportionment of the senate.

Mr. Downs said, that the conformity alluded to by the member (Mr. Benjamin) was a proof that all the reports were pretty near right. The report of the minority of the committee had been spoken of in debate as his peculiar project. That was a mistake. It was the report of a large number of the delegates upon the committee of the legislative department, although a minority of that committee. (Mr. Downs here read the names of those concurring with the report.) It approached much nearer justice, to his conception, than any of the other reports.

Mr. Downs said, he was sorry to hear appoals made to local divisions. That an upper and lower Louisiana should be brought in a conflicting point, although he had felt, perhaps, there was an upper Louisiana, and that the upper end suffered. If this distinction is to be openly avowed, it is as well that we should know it.

The only objection that the gentleman

(Mr. Benjamin) can find to the report of the minority is, that it does not give as many representatives to lower Louisiana, as that section is entitled to.

Mr. Benjamin: What I referred to is, that one senator had been taken from lower Louisiana, and another from the Attakapas parishes, and had been transferred to the cotton district.

Mr. Downs: It would seem that the parish of Plaquemines has suddenly become a great favorite in a part of the house, where she has hitherto been looked upon with a great deal of suspicion. The difference of the project of the delegate from Lafourche (Mr. Guion) is, that he takes a senator from my district and transfers it to that portion of the parish of Orleans, on the right bank of the river. The parish of Jefferson has never objected to the apportionment of one senator. The parishes of St. Bernard and Plaquemines have been satisfied with the allotment of one senator. But it seems with a view of strengthening lower Louisiana, and weakening upper Louisiana, a senator is taken from the latter and given to a little nook and corner on the Mississippi, opposite New Orleans, which contains so small a portion of voters that, as was observed by a gentleman residing in the neighborhood, it was difficult to find out as many as were represented. And yet to provide for it, a large slice is taken out of the district which I have the honor of representing, and had supposed this to have been an error in printing, but upon referring to the manuscript, I find that such is not the case. It has been said that by the project of the minority, that a senator has been taken from Attakapas. I will mention a circumstance in relation to this portion of this apportionment that is a matter of history. I suggested it, on the committee, that St. Martin should have one senator, but it was urged that it was better that St. Martin and St. Mary should go together, and be allowed one senator. In relation to Sabine and Calcasieu, they were placed together without reference to an upper or a lower interest in the State. I have no objection that Calcasieu and St. Landry should go together, and if that modification is desired, I am willing to accede to it; in other respects there is not any great variance in the reports. The Lafourche district in the report of the minority corresponds with the apportionment of that district in the projects of the two gentlemen from Lafourche. The greatest point of difference then, is that a senator is taken from my district, and a parish is lopped off the parish of Caldwell, which has invariably been embodied in that senatorial district, and that to give a senator to a nook and corner that is half caved in, or which may all cave in before the new constitution shall go into effect. I cannot see any great injustice in the project of the minority, but I see a great deal of injustice in the project of the gentleman from Lafourche (Mr. Guion) that takes away one senator from one section of the country which is entitled to it, and transfers it to another which can have no such pretension. The gentleman from Assumption, in the course of his argument, and the gentleman from New Orleans, who followed him, spoke of the influence of cliques, and that if small districts were made, they would be controlled by small men. If the gentlemen intended to point to me, they have shot wider of their mark than they could possibly have supposed. I never expect to profit in any way with the distribution, by the creation of a small district; so far as my personal communications have went, they have always embraced one of the largest districts in the State. I may say with one exception, the largest, so far from having had a small district to represent, the parishes embraced in that district have been apportioned by the several projects into four districts.

Mr. C. M. Conrad: So far from intending to refer to the gentleman, had I had any such intention, I would have cited him as an illustration that large districts were better qualified to make the selection of the senator.

Mr. Miles Taylor disclaimed any allusion to the delegate from Ouachita.

Mr. Downs: I accept cheerfully the disclaimer of the two gentlemen. Still that does not dispense me from replying, inasmuch as their remarks will be published. I had remarked that the district I represented was a proper division for four senators; heretofore it has embraced the entire parishes of Union, Caldwell, Ouachita and Morehouse, besides fractions of other parishes, as Madison, Carrol, &c. Therefore nothing said upon that point could have

any application to me. We all disclaim politics, but nevertheless there is a vein running through whatever we say or do. I certainly am not influenced by any political motive in the creation of these districts. I might, by their formation in a certain manner, subserve the interest of the party to which I am attached, but I have no design to make the apportionment a political machine. While up, I will remark that I consider the project of the gentleman from Lafourche (Mr. Guion) as objectionable on the score of there being no uniformity between the districts; some are to have one senator and others are to have four. That is an anomaly. I think there should be uniformity, whether the districts should be large or small. By striking out eight, we can then act in detail. It is much better to act in this way than to have the case filled out first and to attempt to force into it a body which may be totally disproportionate in size. I do not think there is any thing sacramental in the number thirty-two. I am indifferent whether there be a few less. We can settle that matter in detail.

Mr. Guion had one word to say in reply to the gentleman from Ouachita; that delegate had complained that there was a large slice taken out of his district. I have to repeat what I stated this morning, that I was governed in making the apportionment by territory, population, and wealth. If his district have not the population, territory and wealth to entitle it to an additional member, it is the misfortune of the district. It was because I conceived, from a close examination, that it had neither population, territory or wealth to entitle it to an additional member that I took it away and assigned it to a territory that had. As for the gentleman's objection that there is no uniformity in the districts, I think it has no force, having rigidly adhered in my proposition to the three essential elements of territory, population and wealth combined, it makes no difference whether the districts be uniform or not.

Mr. Benjamin said that the argument of Mr. Downs did not touch the argument advanced by him. The only question at issue was whether certain river and sugar parishes should be included with those of the northern portion of the State—whether lower Louisiana should have seven or eight senators.

The question was then taken to strike out eight from the report of the majority of the committee, and the yeas and nays were called for:

Messrs. Aubert, Beatty, Boudousquie, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Dunn, Garcia, Guion, Hudspeth, Humble, Hynson, King, Labauve, Ledeaux, Lewis, McCallop, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff and Winder—50 yeas.

Messrs. Benjamin, Briant, Kenner, Marigny, Roman, Taylor of Assumption, and Winchester—7 nays.

Mr. Brent then moved to fill the blank with thirty-two.

Mr. Kenner preferred entering into details, and apportioning the senate without fixing absolutely the number of senators at once. He moved to lay the first section on the table, subject to call.

The motion to adopt thirty-two as the number of senators was lost—thirty-two to thirty-one.

Mr. O'Brien moved to fill the blank with thirty.

Mr. Ratliff was in favor of small districts; he said they were just and proper, inasmuch as they facilitated the expression of the voice of the minority. Constitutions were not made for the protection of the majority; majorities were able to protect themselves. But constitutions were made to protect the minority. If we establish large districts we smother the voice of the minority. We place it in the power of a reckless majority to domineer over a minority. The true democratic principle was to place the representative and the represented in close contact. The nearer you can establish that contact the better representation you have of the immediate constituency. The senator would be known and appreciated through his district. He could represent all the local interest of his district. He appealed to the judgment

of the members from the country not to allow the influence of the State to be neutralized by large districts. The intelligent and profound delegate from Ouachita had foreseen the result. As for myself, said Mr. Ratliff, I will never willingly allow the good old parish of West Feliciana to be devoured by her sister and neighboring parish of East Feliciana. What I predicted to my constituents has actually occurred. It is those that style themselves conservatives, that are knocking down the pillars of the old constitution, and it is the radicals that are throwing themselves in the breach to prevent the work of destruction. They may accomplish their design; they may make the new constitution odious to the people, but I shall continue on every occasion to oppose, to the extent of my feeble abilities, their designs.

Mr. KENNER renewed the motion to lay the first section on the table, and proceed with the apportionment of the State. This was the only way of expediting the subject.

The motion to lay on the table was lost —yeas 31, nays 30.

On the motion to fill the blank with thirty, the vote stood, yeas 30, nays 32. So the motion was lost.

Mr. GUION then moved to divide the State into seventeen senatorial districts. Lost—28 to 35.

Mr. KENNER then renewed the motion to lay the first section on the table Carried.

Mr. DOWNS then moved to take up his substitute as a basis.

Mr. SAUNDERS moved an adjournment. Lost.

Mr. DOWNS' motion was put and lost.

Mr. GUION'S substitute then came up, and Mr. Downs moved to lay it on the table.

Mr. KENNER then moved to adjourn. Lost, by the casting vote of the President.

A question of order then arose as to which proposition was properly before the Convention, which was discussed at some length, and it was finally decided that the proposition of Mr. Guion was next in order.

Whereupon the Convention adjourned.

WEDNESDAY, March 26, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by Mr. STEPHENS.

The journal of yesterday was read and approved.

The PRESIDENT offered an explanation, showing how the error which had occurred in regard to the question before the house yesterday when the Convention adjourned. It was owing to his absence for a few minutes during the day, when several motions had been made, and from his not being made acquainted with the exact question before the house on his resuming the chair. He decided, therefore, the majority report of the committee to be before the house then. The first paragraph of which was laid on the table, subject to the call of the house.

Mr. DOWNS then offered the first paragraph of the minority report, as a substitute for the second of the majority.

Mr. WADSWORTH considered that the parish of Plaquemines, with an extent of one hundred miles on both sides of the river, and which was allowed one senator in seventeen under the constitution of 1812, was entitled to two senators in a senate of thirty-two members. As far as territory, property and population went she was fully entitled to two representatives in the upper house.

Mr. CONRAD was of opinion that the house had refused to take up the minority report yesterday, and therefore contended that the motion of Mr. Downs was out of order. He (Mr. C.) was about to offer in detail to-day what had been rejected in totality yesterday. The delegate from Ouachita (Mr. Downs) appeared alarmed, and expressed some regret when a colleague of his (Mr. Conrad's) had alluded to distinction between the north and the south of the State, where the southern portion was allotted thirty-three representatives out of ninety and upwards. But in this the senatorial apportionment as offered by the minority committee there appears to be a northern and southern interest. The parent (Mr. Downs) of the projet, for he has adopted it as his own, seems to regard it with much anxiety. He (Mr. Conrad) would like to see if he has apportioned the State more equally than the representation apportionment. For ten districts in the northern portion of the State, with an entire population of twenty-one thousand, the plan proposes ten senators; and for ten dis-

tricts in the northern portion of the State, with a total population of forty-three thousand, there are the same number laid down. This certainly did not appear to be an equitable distribution. The south has been sacrificed to the north, in the lower house, and now the north claims the same advantages in the senate. The property qualification has been abandoned for members of the legislature, for the right of suffrage. Every basis of representation protective of the southern interest, has been abandoned for that which is most favorable to the north; those parishes that pay least are sacrificed to those that pay most to the State treasury; and the consequence is that representation is exactly in an inverse ratio to the amount of taxation, those who pay least getting the largest amount of representatives; those who pay the most are they worst represented. The responsibility of representation is thus destroyed. There should be some little protection for property; some guard against lavish expenditure. The way this should be had is by apportioning the senate with a view of qualification either of property or taxation.

But here it is found that these ten northwestern districts pay seventy-seven thousand dollars taxes, and the ten south-western pay one hundred and thirty-nine thousand dollars, and yet, with double population, paying double the taxes and sending the same number of representatives to the legislature, it is proposed to give them an equal senatorial allotment.

In this examination he (Mr. C.) confined himself to country parishes; if he were to take others into consideration, the disproportion would be found greater still; in New Orleans it would be found the disproportion quadrupled. He could not support any project of this kind. He was in favor of that offered by Mr. Guion, and even that did not go far enough. He thought too much attention had been paid to extent of territory, and not enough to property, taxation and population. Territorial extent had already been sufficiently looked to in the organization of the lower house; and in order to fix a basis for the apportionment of the senate, and that the house might go on with some principle to guide them, he would move to lay the subject, before the house, on the table momentarily, in order to take into consideration the following:

Whereas, Representation in the lower house of the general assembly has been based solely on numbers,

Resolved, That in the apportionment of representation in the senate, taxation and property shall be taken into estimate.

Mr. Ratliff rose to order. He did not understand how the gentleman's motion could be entertained.

Mr. Downs saw no use whatever in adopting a basis. He thought a basis had been adopted before, and the delegate (Mr. Conrad) as soon as he came to detail threw he tbasis overboard. There was no use in making rules which would never be followed. If the delegate had twenty rules, they would depart from all, as circumstances might seem to demand it. He hoped the motion would not prevail.

Mr. Wadsworth hoped the motion would prevail. He was one of those who advocated the rights of property as well as those of persons. Personal rights are protected in the lower house; why not, therefore, leave the senate as a safeguard for property? A basis of apportionment had been fixed for the former apportionment, and it was adhered to. But now the senatorial representation will be given to the pine woods, and thus the wealthy parishes of the State will be sacrificed for the poor ones.

Mr. Ratliff saw no good result that could arise from laying down a basis, as he supposed they could not strictly confine themselves to it. Let the house proceed on the property population and taxation of each parish, and apportion by the best fixed rule, taking the combined considerations into the estimate. If any rule is adopted, it will be deviated from the first step. He was unwilling to declare himself in favor of a property representation in the senate; he thought territory should be considered as well.

Mr. Claiborne did not understand why a principle for the apportionment of the senate, should be established beforehand. There existed the same necessity for a basis being established for the upper as for the lower house; it was equally necessary that this basis should not be the same; if otherwise, they shall be subject to the same prejudices and passions in both cases, and devoid of that salutary check so necessary in the constitution of republican govern-

ments. Let us now establish proper landmarks to guide in the correct apportionment of senatorial representation, and abide by them; without such a principle we shall be proceeding at random—a vast deal of time will be consumed in discussing local interests, and sectional feelings will mar us at every turn. In consideration of the formation of the lower house having been made with disregard to property and taxation, it is only just that those should have a fair weight in the senatorial house.

Mr. Downs contended that the gentleman was out of order, in discussing a question not before the house.

Mr. Conrad proceeded to make some observations in support of the resolution which he had just submitted, when

The President called on him to confine himself to the motion "to lay on the table."

The question was then put, and the yeas and nays being called for,

Messrs. Aubert, Boudousquie, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Kenner, King, Labauve, Legendre, Mazureau, Pugh, Roman, Saunders, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the affirmative—23 yeas; and

Messrs. Beatty, Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, Lewis, McCallop, McRae, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of East Baton Rouge, Scott of East Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Voorhies, Waddill, Wederstrandt and Wikoff voted in the negative—36 nays.

Mr. Wadsworth moved to strike out one senator, and insert two, for the parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans situate on the west bank of the Mississippi.

Mr. Downs offered the first paragraph of the minority report, as a substitute for that of the majority.

Mr. Kenner said, the proposition of the gentleman was not in order. The subject matter under consideration, involving as it did, the city of New Orleans, was entirely different to that included in the motion, which was the parish of Plaquemines—and therefore he contended the motion to be out of order.

Mr. Downs then offered the section of the minority report, apportioning New Orleans in lieu of that of the majority.

Mr. Miles Taylor moved to lay the subject on the table. The Orleans delegation were averse to dividing the city, according to the report, and he would therefore oppose.

Mr. Benjamin moved to amend Mr. Taylor's motion, on the table subject to call, as there were many members of the Orleans delegation absent on professional business. He offered this with a view to go on with the other apportionment, there being no difference entertained on the number of senators for the city, the only question that might arise being the manner of dividing them.

Mr. Culbertson disagreed with his colleague, as he considered the division reported a very fair and just one.

The yeas and nays were then called, and the result was as follows:

Messrs. Beatty, Benjamin, Boudousquié, Bourg, Briant, Brumfield, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the affirmative—31 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Humble, Hynson, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Stephens, Waddill, Wederstrandt and Wikoff voted in the negative—29 nays; so the motion prevailed.

Mr. Downs then offered the following: The parishes of Plaquemines, St. Bernard, and that portion of the parish of Orleans on the right bank of the Mississippi, shall have one senator.

Mr. Wadsworth moved to insert "two" senators, instead of "one." He had received some official documents showing the amount of taxation paid into the treasury by that parish. In the year 1843 Pla-

quemines paid $14,000, and that sum was now considerably increased. That parish had an extent of one hundred miles on both sides of the river, and when it had been allotted one senator out of seventeen, by the constitution of 1812, it was fairly entitled to two out of thirty-two.

Mr. Downs said that if they gave that portion of the State more than one senator, it would change the principle of the report altogether. The parishes of Jefferson, St. Charles and St. John the Baptist will comprise the second district. The parishes of Ouachita, Caldwell, Union and Jackson, (newly added) with larger population by far, will have one senatorial representative; and he could not see the justice or necessity of taking a member from other parishes and adding to Plaquemines and St. Bernard. The senatorial delegate from Plaquemine fully agreed with the project of the minority now offered.

Mr. Wadsworth said that the gentleman from Ouachita (Mr. Downs) knew that he (Mr. Wadsworth) and the senatorial delegate from Plaquemines (Judge Leonard) differed on that subject. The latter is of opinion that life and liberty should alone be protected; but he (Mr. Wadsworth) was one of those who always thought that as long as a man had a dollar in his pocket, that property was more valuable to him than liberty without it? Is not the acquirement of property the incentive to us all? Do not all labor with this view? All our exertions are to secure property. The representation of taxation and property, therefore, should be a vital principle in the formation of the senate. You have universal suffrage the basis of the house of representatives—for the sake of justice, then, let the senate stand by to prevent the State from being flooded with ruin by a prodigal waste of the treasury funds. Who will it ruin? Not the poor; they are ruined already—then it must fall on those who possess means. What protection have we, then, if we have it not in the senate? He would predicate the apportionment on property; the members of the lower house, members of congress, governor, are all voted for on the principle of universal suffrage; if the property qualification is abandoned, men will be elected who have nothing to lose, but all to gain.

Mr. Miles Taylor would support the motion to insert two, on the ground of extent of territory of that parish, and of the prospect of its future increase of wealth and population, from its proximity to the city of New Orleans.

Mr. Benjamin was in favor of the amendment. He found that in 1843 Washington and St. Tammany had paid the sum of $3,700 taxes, and Plaquemines $12,000 in the same year, though he had no doubt the latter sum was increased to $13,000 in 1844. He also found that Plaquemines, St. Bernard, and the west bank had a population double the number of St. Helena, Livingston and St. Tammany. On any basis that could be adopted two senators were fairly due to this district.

Mr. Splane opposed the amendment. Taking a view of the relative positions of St. Mary and St. Martins, compared with the district before the house, he would insist upon four members for the former, if two were given to the latter. He was satisfied with two; but it was in consideration of the apportionment now offered being adhered to. It was unequal and unjust to extend the number allotted.

Mr. Beatty said that the parishes under consideration, were, upon any basis, entitled to two senators, either as to extent of territory, population or property. He was surprised to hear members take up a principle and adopt it whenever it suited them, and abandon it the next moment.

Mr. Marigny supported the amendment. He briefly reviewed the progress of the parishes of Plaquemines and St. Bernard from 1812 to the present time; and contended that this apportionment should not be made with a view to the present; but that due regard must be had to the growing improvements which are constantly taking place around us.

The question was then put, and the yeas and nays being called for, the result was as follows, viz:

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Briant, Cenas, Claiborne, Conrad of Jefferson, Culbertson, Derbes, Garcia, Hudspeth, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff and Winchester voted in the affirmative—26 yeas.

Messrs. Brazeale, Brent, Brumfield, Cade, Chambliss, Conrad of New Orleans,

Covillon, Downs, Dunn, Guion, Humble, Hynson, Keller, McCallop, McRae, O'Bryan, Penn, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feiciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill and Wedderstrandt—31 nays. So the motion was lost.

Mr. Downs moved the adoption of the section.

Mr. Beatty moved to strike out "that part of the parish of Orleans situate on the right bank of the river Mississippi." This amendment was lost.

The section was then put, on motion of Mr. Downs, and carried.

Mr. Benjamin then moved that the parishes of Jefferson, St. Charles, and St. John the Baptist be entitled to three senators.

Mr. Brent moved that Jefferson be allowed one senator; and that the parishes of St. Charles and St. John the Baptist be stricken out.

Mr. Claiborne opposed, conceiving the object to be to deprive the district of one senator, which was given to it in the report.

Mr. Conrad of Jefferson, would support the motion to divide the question, if two senators were allotted to Jefferson.

Mr. Garcia was in favor of giving two senators to Jefferson; the last accounts of the treasurer show that seventeen thousand eight hundred and seventy-eight dollars taxes had been paid to the State by her; she has a white population of four thousand eight hundred and sixty-six, and a total population of ten thousand four hundred and seventy. The interior of the parish is unlike that to be met with in other parts of the State, consisting of dry and fertile tracts; she commands a large extent of territory on the sea-shore too, where the population is increasing every day.

Mr. Benjamin moved to divide the question. He said that the question that should be first put to these was, whether Jefferson should be divided from the other or not.

Mr. Wadsworth would be satisfied to let Jefferson have two senators and give the others one, and have the three elected by general ticket. If a senator is taken away from this part of the State, it will be given to the Florida district, where they could not predicate a senator on a property qualification.

Mr. Downs preferred having separate parishes, as a general rule, and had adopted that principle in his report, except in two instances, where the parishes could not well be divided.

The question to divide was then put, on motion of Mr. Benjamin, and carried in the affirmative—34 voting in favor, and 27 against it.

Mr. Conrad of Jefferson, then renewed his motion to insert two instead of one senator for his parish. He felt assured that the returns for taxation has been recently largely increased. But he was satisfied to rest on the taxes paid in 1843, and to take even the census of 1840 for his claim to two senatorial members. In 1843 the tax on real estate in that parish amounted to eighteen thousand dollars, apart from the revenue derived from taxes on professions, no inconsiderable item, from the fact that there is growing up in the parish the second city in the State. The population in 1840 was put down at ten thousand five hundred. She is the fourth or fifth parish in the State in every respect, as to property, taxation, population, and prospects, and fully entitled to two senators. He looked upon a restriction in this case as striking out all proper principle of representation. He was satified even to let her remain joined to the two other parishes, provided three senators were allotted to them.

Mr. Preston was in favor of the motion offered by his colleague. There were however other and weighty considerations why Jefferson should be allowed two senators. She was essentially a commercial parish, and it was necessary that the senators should be elected by those whom they represent. He therefore agreed to divide this parish from St. Charles and St. John the Baptist, because there were different interests to be protected. He was opposed to having so large a number as thirty-two in the senate, but since that had been agreed to, and that they had one senator in 1812, when the parish was small, he could see no injustice in allotting two members to it. She has always had one in seventeen; you now double the number, and therefore can hardly refuse to double the representation. The population and

wealth of the parish has increased, and in the last five years the number of votes polled has increased from three to eight hundred. But the citizens of Lafayette and Jefferson have been kept back by legislation; privileges were denied them that were accorded New Orleans; but recently Lafayette has obtained justice, she is now a port of entry, and because her port charges are considerably below those of New Orleans, the increase of shipping, commerce and attendant benefits are becoming more manifest every day. If this constitution lasts ten years, he had no doubt but that the parish of Jefferson would be equal at that time, in point of population, wealth and voters, to the parish of New Orleans. He hoped it would not last ten years. He would again say, that Jefferson, having property, taxation, population and voters entitling her to two senators, it would be unjust, nay, he would call it almost iniquitous—though he used the term with all due respect for gentlemen on that floor—to give them but one senator, which they had in 1812, when now their advantages have become so extended and increased. Give her at least two in thirty-two; do her justice, that is all she asks.

Mr. Downs fully admitted that the gentleman (Mr. Preston) has made out a strong case for his parish, as far as taxation, population and wealth went, but based on territory, or local divisions of the State, he felt himself obliged to differ. In distributing the apportionment and dividing the districts they had not given to any parish more than one senator, and as the number is likely to be thirty-two, it would lead to a subversion of other parishes from the allotment as reported. It is admitted with reason that the representation of a commercial community is not to be taken on the same grounds as an agricultural one, but it seemed to him that when New Orleans gets but four senators, it can't be pretended that the parish of Jefferson can claim any thing like half the representation of New Orleans; and in regard to the gentleman's (Mr. Preston's) opinion in relation to Jefferson being equal to New Orleans in ten years, he thought the calculation rather a large one, and something which transcends any thing ever known in this country. Jefferson is not the only fixed parish on the same basis as was the allotment of 1812. We will find Ascension, Assumption, Lafourche and others, very nearly in the same position as they held under the old constitution. He should number vote against a larger than one, at least as long as the senate was confined to thirty-two members.

Mr. Miles Taylor confessed himself somewhat amused at the controversy. He saw gentlemen severally advocate population, property, and territory; by others these were regarded as the united elements of a basis. He was one of those who regarded territory as a basis; there will be all through this distribution a contest for political power, and one portion may perhaps be sacrificed by the adroitness of the representatives from another. When Plaquemines was brought up, with a large extent of territory, and we propose to give it a certain representation, his honorable friend from St. Mary rises and says "you have not population sufficient." Jefferson comes up next, and the gentleman from Ouachita, with his usual penetration, discovers "that she has not territory." Thus gentlemen make their knife cut both ways, and can blow hot and cold at the same time.

Mr. Splane did not understand what the gentleman (Mr. Taylor) meant by "blowing hot and cold," but he saw that the delegate (Mr. Taylor) who always advocates New Orleans, although he does not represent her, was here indirectly endeavoring to give New Orleans and the country immediately around her, eight votes in the senate. Because New Orleans was to have four, so that if Plaquemines got two, and Jefferson two, the influence in the senate would be swallowed up in the city. He would oppose any effort to such an effect.

Mr. Wadsworth would vote to give Jefferson two senators, on the same principle as he claimed two for Plaquemines; and he would then ask two for Plaquemines, and he trusts that gentlemen would not be so inconsistent as to refuse him. Although they had done him great wrong in already refusing him two senators, yet he would never do wrong to other parishes because his own was unjustly dealt with. Mr. Splane has said the farming interests require protection, then why refuse him two senators? That is just the principle he advocates; he considers cities as mere

agents for the country; but he (Mr. Splane) professes himself an advocate for the planting interest, and in his very first vote he denies the principle by refusing two senators to Plaquemines.

Mr. Conrad of New Orleans, was in favor of giving two members to Jefferson. As regarded the statement of Mr. Downs, that the interests and position of Lafayette and New Orleans were in every way identified with each other, that was purely a mistake; they have no feelings of interest with one another; they were essentially different in commercial business, in pursuits and in population. The delegate (Mr. Splane) will find that the taxation for Jefferson, for 1843, to be nearly equal to that of St. Mary and St. Martin, and assuming that those parishes were entitled to two representatives accordingly, he would vote for two representatives for them; and for all parishes having population, property and territory, he would give a fair representation. He therefore considered it nothing but justice to give Jefferson two senators.

Mr. Brent was opposed to giving more than one senator to Jefferson. By referring to statistics it will be found that the parishes of St. Landry, Rapides and Natchitoches will be entitled to two senators if Jefferson gets two; and as they want but one, he was unwilling to give the latter any more. The taxes paid by Jefferson in the year 1843 amounted to seventeen thousad eight hundred and thirty-eight dollars; the population in 1840 was ten thousand four hundred and seventy; Rapides paid in 1843 sixteen thousand four hundred and ninety-six dollars, and her population in 1840 amounted to fourteen thousand one hundred and thirty-two, and at the last election Rapides polled two hundred votes more than Jefferson; as regards territory, Rapides is far greater in extent than Jefferson; Natchitoches has a greater extent; and that of St. Landry is nearly double.

Mr. Preston said if they regarded territory alone, Jefferson would be entitled to twenty times the number of senators that New Orleans is. But the growing interests of Jefferson, its commerce and great prospects, induce us not only to look to the present state of things, but to the progressive importance of the parish.

Mr. Claiborne contended that as one district with four senators was to be formed out of the three parishes, Jefferson, St. Charles and St. John the Baptist, it was only fair, when they had separated Jefferson, to let her have two of them. He considered her, on any basis, fully entitled to them.

"Question" was called from all parts of the house, and being put, it was lost, by a vote of 29 yeas and 36 nays.

The motion to allot one senator to the parish of Jefferson was then put and carried.

The parishes of St. Charles and St. John the Baptist were allotted one district with one senator.

Mr. Kenner moved that St. James and Ascension form one district.

The motion, after a remark or two from Mr. Beatty, was carried.

Mr. Kenner then moved to give the district formed by those two parishes, two senators; when

A motion was made to adjourn, and carried.

Thursday, March 27, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer, by the Hon. Mr. Stephens, delegate from Sabine, at the request of the President.

ORDER OF THE DAY.

The Convention resumed the consideration of the apportionment for the senate.

Mr. Kenner had moved that the parishes of Ascension and St. James form a senatorial district with two senators.

Mr. Kenner said, that when the Convention adjourned, the question pending was to allow two senators to the district composed of the parishes of St. James and Ascension. He was prepared to show that this apportionment was but sheer justice. By the reports, both of the majority and minority of the committee, as well as the project presented as a substitute by the delegate from Lafourche, (Mr. Guion) what was known as the fourth judicial district, comprising two parishes on the Mississippi and three on the Lafourche, was allowed four senators. The only difficulty was in allotting this representation between them. He would call the attention of the Convention to a fact or two which would place the claims of these two parishes, St. James and Ascension, in a proper light. Their

total population was fifteen thousand [illegible] hundred and twenty-nine, the total population of the parishes on the Lafourche was eighteen thousand eight hundred and seventy. The amount of taxes paid by the former was nineteen thousand seven hundred and forty-seven dollars and three cents, and by the latter seventeen thousand nine hundred and eighty-one dollars and sixty-eight cents. Thus it would be seen that while there was an excess in the population in favor of the three parishes on the Lafourche, there was a considerable excess in the amount of taxes contributed by the two parishes on the Mississippi. They were then nearly equal in population, and more than equal in taxation. In reference to extent of territory, the difference between the two parishes on the Mississippi and the three parishes on the Lafourche was not material, and if value was taken as the measure, the result would be in favor of St. James and Ascension. These facts, he conceived, were sufficient to satisfy members that one-half of the senatorial representation allowed to the fourth judicial district, ought to be awarded to Ascension and St. James. Let us apply another test. If we take the total population of all the parishes combined in the fourth judicial district, amounting to thirty-four thousand three hundred and ninety-nine, and divide it by four, the number of senators allowed to the district, we find that eight thousand five hundred and ninety-nine persons would be entitled to a senator, and that according to that estimate St. James and Ascension would be entitled to two members of the senate.

If we take the total amount of taxes contributed by all these parishes as a basis for their relative representation, and divide the amount by the figure four, the total number of senators allowed them, we find that nine thousand four hundred and thirty-two dollars of taxation would entitle the population contributing that amount to a representation of one upon the floor of the senate; and that according to the requisite quotas St. James and Ascension would be entitled to more than two senators. Take any conceivable basis that would operate equally and uniformly, and it will be found that they are entitled to two senators. There is another consideration that should have great weight. Of the eleven members in this body from the fourth judicial district, there are but one or two that are opposed to this allotment of political power, and to this division of the senatorial delegation. The wishes of the people of both the parishes are decidedly in favor of their unity in continuing to form a distinct senatorial district.

If we indulge in a prospective view of the augmentation and mutual increase of these two parishes—which line of argument appears to have had, as it ought to have, some influence with the Convention, inasmuch as the dispositions of the constitution are permanent—in the space of thirty years they will be entitled to more than is now claimed for them. A large body of land known as the Houma grant, containing from one hundred and fifty to one hundred and sixty thousand acres, every foot of which is susceptible of cultivation, lies in one of these parishes, the parish of Ascension, and is just about being brought into the market. Owing to the contest between the grantees and the United States, it has heretofore remained a perfect waste. The contest in relation to it, however, is definitely settled. This parish, next to one, produces the largest quantity of sugar. It is increasing both in wealth and in population, to a considerable extent. The other parish, the parish of St. James, is one of the wealthiest parishes of the State. Combined together, they are entitled to two senators. The people of both parishes heretofore, for the last thirty-two years, have lived in the same political community; they have formed ties which they would be reluctant to sever. It is to be hoped that nothing of the kind will be attempted, and that while they shall be continued as forming a separate senatorial district, they will be allowed that representation in the senate to which they are justly entitled, and which is not only claimed by their immediate representatives upon this floor, but which is conceded unanimously by the delegations from the other parishes in the judicial district, with but a solitary exception.

Mr. Beatty said that whatever might be the opinion of his colleagues upon the question now submitted, and even although he might stand alone upon that question, he would, nevertheless, under his convictions, feel himself bound to vote against the proposition of the member that had just

addressed the Convention. It was no difficult matter to represent the condition of a parish under the most flattering auspices, when it was desired to increase her political power. But in the present instance, the parishes of Lafourche and Terrebonne had nothing to apprehend from a comparison with St. James and Ascension, when all the facts were disclosed. With one-half of the slave population of the two latter parishes, they made more sugar. It was true they contributed less taxes; that there was less operative wealth, but their territory was more densely settled, and yet a large portion of that territory remained still unsettled, the resources of which were developed; while but a small portion of Ascension was susceptible of further settlement, and as for the parish of St. James, it was all settled. Both Ascension and St. James were old parishes; Lafourche and Terrebonne were comparatively of much more recent date, especially the latter. The parish of Lafourche, next to the parish of St. Mary, is the largest producer of sugar, and Terrebonne ranks next to Lafourche. But although Terrebonne is as yet secondary in importance, I have no hesitation in saying that the day is not distant when she will be the richest and most populous parish in the district. These parishes, whether in reference to the present or to the future be had, have as much right to two senators as the parishes of St. James and Ascension; but if this be done, it will be necessary either to increase the senatorial delegation from four to five, or else the parish of Assumption will be disfranchised.

It is well known, Mr. President, that I should have preferred large districts to small districts. But if there is to be a division into small districts, I will never yield my assent that it be based upon political motives; and yet the result will be, if this allotment and division be made, the furtherance of such motives. I will not object if a separate senator be allowed to St. James, provided that Ascension and Assumption be placed together for one senator, and Lafourche and Terrebonne have the other two.—This seems to me would be a much more appropriate and equitable division of territory and of political power.

As to the arguments, said Mr. Beatty, of the difference in the taxation, I will reply [illegible] land tax is arbitrarily fixed by the legislature. The Lafourche parishes are placed at less than the parishes of Ascension and St. James. Why, I am really at a loss to discover. The lands are certainly more productive in the Lafourche parishes than in the parishes of Ascension and St. James. As to extent of territory, it is undeniable they have a vast superiority, particularly the parish of Terrebonne. The parish of Terrebonne dates its existence scarcely twenty years back; whereas St. James and Ascension were established with the earliest settlements in Louisiana. If we are to take into consideration the future, as well as the present, then their claims are incontestibly superior to those of St. James and Ascension. But what is the design of this division? Is it to give two senators to two parishes, while three are to have but two?

Mr. Miles Taylor conceived it to be incumbent upon him, as a delegate of one of the parishes interested in this question, to state his views and to declare what principles would actuate him in the vote he was about to give. He took it for granted that it was the unanimous wish of the Convention that four senators should be allowed to the parishes embraced within the fourth judicial district. At one time it was suggested to allow them five senators. This was not proposed in the house, but was spoken of among individual members. He (Mr. Taylor) did not think them entitled to that number, and had the Convention been disposed to accord that number, he would have voted against it, on the ground, and with the perfect conviction, they were not entitled to it; and that necessarily if it were given to them, it would have to be taken from another section that was better entitled to it. He could not agree in the allotment of the four senators as suggested by the delegate from Lafourche (Mr. Beatty.) The house knew that he (Mr. Taylor) resided in the parish of Assumption. He had no connection with the parishes of St. James or Ascension; or if he had, they were less intimate than those with the lower parishes of Lafourche Interior and Terrebonne. His predelictions were therefore favorable to the lower parishes which formed the senatorial district under the old constitution. But he was actuated by a sense of justice,

and taking into consideration the relative population of the two parishes on the Mississippi, and the three on the Lafourche, with the amount of taxation contributed by them, he thought the two parishes of St. James and Ascension were better entitled to two senators than the three remaining parishes were entitled to three senators. It was true that the two parishes were not equal in every respect to the three; there was a disparity in the population; but yet they came nearer to the standard for two senators than the three remaining parishes for three senators. To establish his view of their relative pretensions, he would refer to some statistics. St. James and Ascension have a population of fifteen thousand four hundred and ninety-nine, Lafourche and Terrebonne have a population of eleven thousand seven hundred and thirteen. As between St. James and Ascension, and the other two parishes of Lafourche and Terrebonne, if either be entitled to two, St. James and Ascension are better entitled to two senators than the two other parishes. St. James and Ascension have a population of fifteen thousand four hundred and ninety-nine, and the three remaining parishes of Assumption, Fafourche Interior, and Terrebonne, have an aggregate population of eighteen thousand six hundred and sixty; a little more than one-fifth. From that result, it appears that Ascension and St. James are more entitled to two senators than the three parishes are entitled to three senators. The fairer allotment would be to divide the four senators equally between the parishes on the Mississippi, and the parishes on the Lafourche.

He was in favor of large districts, but he felt pursuaded that the Convention would not act upon that principle. If the districts were separated, and St. James was allowed one senator, and Ascension one senator, there would remain two senators for the remaining three parishes. How ought they to be distributed? If the house will look into the tabular statement prepared by the second committee on the apportionment of the house of representatives, they will find the population of Assumption to be seven thousand one hundred and fifty-seven; the population of Lafourche Interior seven thousand seven hundred and fifty-three; and Terrebonne four thousand four hundred and ten. It is evident that Lafourche Interior would be better entitled to one senator than either of the other two parishes, and there would be nothing more than simple justice in granting her a senator if the remaining senator could be apportioned to Assumption and Terrebonne; and that would be a proper distribution. But unfortunately there are physical disabilities. The first parish in descending the Lafourche, is the parish of Assumption; it only touches Terrebonne at a remote point near the Atchafalaya, which is difficult of access. It would therefore be exceedingly inconvenient to unite these two parishes in their senatorial representation. The population of Assumption was nearly equal to that of Lafourche Interior, her white population was larger. If Lafourche Interior were united with Terrebonne in her representation, although there would be a peculiar fitness in placing them together from the contiguity of their territories, yet there would be great inequality both in reference to extent of territory and population. From the local position of the three parishes it is difficult to divide them into separate senatorial districts and to preserve the principle of equality and uniformity. All that could be done would be to make them as equal as circumstances would permit. He would not oppose the formation of separate senatorial districts, although he would prefer that they should be formed into two senatorial districts: Ascension and St. James to be one senatorial district, and Assumption, Lafourche Interior and Terrebonne, to be the other senatorial district. It is true, as has been stated by the delegate from Lafourche, that this would result in making both whig. But so far as his (Mr. Taylor's) actions were involved as the representative of the people, he knew of no other rule of action than their wishes, and was not to be controlled by the political divisions of whig or democrat. He was the representative of the parish of Assumption; the representative of the wishes of the people. It was his duty to consult the wishes of the people, and he knew full well that they desired no political division which would dissolve their political connection with the two contiguous parishes. Were he not to examine and base his actions upon their desire in that respect, he would violate his duty, and

his course would not be in accordance with their wishes. He cared not whether the result were favorable to the whig party or to the democratic party; his vote was not predicated in reference to party politics, but it was in reference to what the people were entitled to, and what the majority desired.

Mr. Brent moved the reconsideration of the vote giving one senator to St. James and Ascension. Upon this motion a discursory discussion occurred, which terminated in a motion of Mr. Brent to lay the subject under debate, upon the table.

The motion was then put, and the yeas and nays being called for, it was found that

Messrs. Beatty Brazeale, Brent, Cade, Chambliss, Covillion, Downs, Humble, Hynson, Lewis, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Winder voted in the affirmative—29 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Wadswikoff and Winchester voted in the negative—36 nays; consequently the motion was lost.

Mr. Kenner desired to know how any delegate could rise and assume to know the sentiments of the people of a district better than the immediate representatives of that district; delegates, too, that come from a different portion of the State. It was perfectly legitimate for all the members to participate in the apportionment of the representation of any particular district, but when the allotment was made, it seemed to him that it was for the people themselves to determine what distribution they would make of the number allowed them, among themselves. He considered it an interference into family affairs, to attempt to resist the wishes of the people of the district, and could not but notice the continued efforts made by the delegates from Ouachita and Rapides (Messrs. Downs and Brent) to misconstrue the wishes of a district that had its own representatives on this floor to express its views. How would the gentleman from Rapides relish it, were I to rise and state that his parish was a large parish and that it ought to be divided, because this division would be favorable to a certain expression of political opinion with which I concurred. It is well known to me, that the inhabitants of the valley of that parish entertain, unanimously, political opinions adverse to those entertained by the inhabitants residing in the Piney Woods. I am well aware of the disposition to divide the golden district of Acadia. But if it is to be doomed, it will be by no man having any identity of interest with it; it will be by those who have no feeling in common; who come from another quarter of the State. I trust the Convention will give no encouragement to the disposition to cut it up, but that they will determine to maintain it intact.

Mr. Downs: If the gentleman thinks that I wish to enterfere in the distribution of the senatorial delegation of this district, he is entirely mistaken. I do not care one straw whether St. James have all, if the other parishes choose to consent. What I object to is putting together two large parishes in one district. But I do not care how the district be divided, provided these two parishes do not stand together to elect the two senators. I am opposed to the principle, that any district should elect more than one senator. It was on that ground that I objected to allowing two senators to the parish of Jefferson. I think it important that there should be uniformity in the districts, and this result should be consulted as far as practicable. If St. James and Ascension be really entitled to two senators, let these parishes have them, but let each parish elect one, as a separate senatorial district. He would move that they be established into separate senatorial districts.

Mr. Roman hoped that this motion would not prevail. For the last thirty-two years St. James and Ascension have formed one senatorial district. The populations residing in the parishes have the same habits, the same kind of agricultural industry and the same interests. They have entrusted their delegation to ask the Conven-

tion to preserve their actual political organization and identity. I can see no good reason why this reasonable request should be refused, when a compliance with it can be of no detriment to any portion of the State. The delegate from Ouachita (Mr. Downs) complains that it is obnoxious to his favorite system, of small districts. If he indeed have the power, which I much fear he has, to control the action of this body, and we must pass under the yoke while he is cutting up the State into insignificant fractions, let him at least have some clemency; let him hear our admonitions. These divisions, *ad infinitum*, may be carried to a dangerous exces. They will undermine and destroy the wise system of checks and balances which the founders of our institutions deemed it essential to establish between the two branches of the legislative department. The senate will cease to be a check upon the house of representatives so soon as you supersede the original basis of its organization, and cause its members to eminate from the same constituency, and to partake of the same responsibility.

I trust, Mr. President, that if there be a majority of this body, who are in favor of dividing the senatorial representation into minute fractions, they will at least respect the wishes and feelings of such parishes as have, under the old constitution, formed united senatorial districts, and which are very reluctant to lose their past political association.

Mr. Brent: The delegates from St. James and Ascension seemed to apprehend that great injustice was about to be done to their part of the State. He did not believe that any disposition existed to deprive that or any other portion of the State of its just representation. He could not agree with the delegate from Ascension, that the members from other parts of the State had nothing to do with this matter; that it was a family affair. He conceived that all parts of the State were interested in the apportionment for the senate. It was a matter of general consideration that no one portion should have a greater concentration of political power than another portion. He was decidedly favorable to small districts; that each district should have one voice, but that no district should have two voices in the senate. It was desirable, and indispensable, to carry out that principle with uniformity. How can these delegates object to that? They assume that the local representation are unanimous in desiring those two parishes to be an exception from the rule which the majority of this body have shown a disposition to sanction. But it would seem that the delegation from the locality, composing the whole district, are not united in opinion; I understand they are divided in opinion. These parishes are susceptible of being divided into separate districts, and I have heard no good reason advanced why that should not be done. I cannot consider this question in the light in which the delegate (Mr. Kenner) had attempted to place it; and cannot concur that it should be left solely to a majority of the local delegation to determine.

Mr. Kenner moved that the district composed of the two parishes of St. James and Ascension, have two senators.

Mr. O'Bryan moved that this district should have one senator.

Mr. C. M. Conrad desired to know whether it was the design of the gentlemen to take this senator from the south for the purpose of giving him to the north-west?

The north-western portion of the State, said Mr. Conrad, had, in point of fact, but half the population, and contributed scarcely one-half of the taxation of the State, and yet she was allowed an equal representation with the balance of the State. Was it intended to favor her still further?

Mr. Brent said it was unfortunate for the gentleman to refer to the voters, as they incontestably exhibited that the northern and western parishes of the State had the preponderance of members. To exhibit this, he would call the attention of the gentleman to the votes cast in the last presidential election. By calculating the number of votes given in the several parishes embraced within the senatorial districts, it would be seen that in proportion to population the senatorial districts in the south were allowed a larger represetation than they were entitled to, while the districts in the north and north-west were put down at less than they were entitled to. The gentleman's insinuation, then, that the north and north-west were peculiarly favored was not sustained by a reference to the facts. It was on the contrary, the pa-

rishes in the south that were specially favored.

[Mr. Brent read a comparative statement of the returns of the last presidential election to substantiate what he had advanced.]

Mr. Downs said it was altogether superfluous for the gentleman from New Orleans (Mr. Conrad) to ask for any such information. It had already been explicitly disavowed, that there was any intention to take away one senator from the districts embracing the parishes of Ascension, St. James, Assumption, Lafourche and Terrebonne. Four senators had been conceded to these parishes by common consent. The north-west did not want this senator. The only point of difference was, whether two parishes should form a district to send two members, and should send them conjointly. He was not averse to their having the two senators, but he was opposed to any one district in the country sending two members. Where some necessity existed for it—where one parish was large and another parish was small—where the circumstances were imperious he might yield the principle to such exceptions. But in the present instance there was no such necessity, and he saw nothing to justify a departure from the general rule.

Mr. Splane said he represented the same kind of interest as was involved in the decision of the question now pending before the Convention. It cannot be for one moment supposed that I wish to curtail the influence of the parishes of St. James and Ascension. On the contrary, I am deeply interested as the representative of a parish having an identity of interest, that the sugar growing region should have as many representatives as is consistent with justice. That each district should send one senator, is a favorite principle with me, but I am not in favor of any district sending more than one, where it can possibly be avoided. I would consent that St. James and Ascension should have two senators, but on condition that each should send, separately, one senator.

One of the arguments advanced by the delegate from Lafourche (Mr. Guion) to sustain his proposition that each senatorial district should send two senators was, that it would take the appointing power out of the hands of one senator from the district, which might be abused. I think that the gentleman paid a poor compliment to the executive department. And if his doctrine were true, that the senator from the district possessed the appointing power, then so far as the parish of St. Mary was concerned, the several senators from Attakapas had signally failed in the discharge of their duties in reference to the appointments made for that parish—for it had happened that all the appointments had been made out of the senatorial district, from the neighboring county of Opelousas, with but a solitary exception: that of a sheriff—that was actually taken from St. Mary!

Mr. Ratliff avowed himself in favor of the one district system, and went into an exposition both in reference to the population of the parishes embraced in the allotment under consideration and their taxation; and he thought upon the whole, it was fair to allow them two senators, but he was unwilling to vote that they should form one united district. It was impossible to have a perfect equality in the representation; in the present instance it was out of the question. All that we could do was to approach that equality as nearly as possible. He would vote in favor of granting two senators to the parishes of St. James and Ascension, but would insist that they form separate senatorial districts.

Mr. Downs thought the gentleman (Mr. Ratliff) would be more likely to effect his object by voting against granting two senators to the two parishes united. If that question failed, then their delegation would be ready to divide the district in order to obtain the two senators.

Mr. Roman called for the yeas and nays upon the question that St. James and Ascension form one senatorial district and be entitled to two senators.

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Burton, Cade, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth and Winchester—39 yeas; and

Messrs. Beatty, Brazeale, Brent, Brum-

field, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, O'Bryan, Penn, Peets, Porter, Prescott of Avoyelles, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill, Wederstrandt, and Winder—25 nays.

Mr. RATLIFF gave notice that he would move for the reconsideration in order to establish two senatorial districts in the parishes of St. James and Ascension.

Mr. TAYLOR proposed to form one district of the parishes of Assumption, Terrebonne and Lafourche and to give the district two senators.

Mr. BRENT moved to constitute Lafourche into one district with one senator, and Terrebonne and Assumption into another district with one senator.

Mr. GUION said that the particular localities of these parishes would make it necessary, in order to make the two districts equal, that a portion of the parish of Lafourche should be connected with the parish of Assumption. To place the parish of Assumption as a separate district, and the parishes of Lafourche Interior and Terrebonne as another district, would be making the districts glaringly unequal. He did not believe that such a design could be entertained.

Mr. RATLIFF said there appeared to be suddenly a mania for a perfect equality between the districts. And yet those that are now such sticklers for that equality, had no objection to make Ascension and St. James a district, and give that district two senators, although not strictly entitled to them by population. He (Mr. Ratliff) conceived that a perfect equality in every respect was impossible, we could only approach that equality. It was that consideration that induces him to vote to give St. James and Ascension two senators, but with the design, at least on his part, that the two parishes should be divided into two districts. The great object was to secure to a similarity of interests and a contiquity of territory, a separate representation, and thus to protect the rights of the minority. As far as it was practicable he desired to see every distinct population and every distinct interest represented in the legislature. He was not influenced by any political considerations. If a small parish of different feelings and interests were connected with a large parish, the result would be that the voice of the former would be stifled. For example, if the parish of West Baton Rouge were united with the parish of East Baton Rouge, the voice of West Baton Rouge would never, in all probability, be heard. The only way of avoiding such a result was to give a separate and distinct representation, as was practicable, to each parish or distinct political community.

Mr. GUION disliked to trouble the Convention. His constituents might feel themselves indebted to the member from Feliciana for volunteering his assistance in their behalf. But (said Mr. Guion) I do not feel indebted to him. I consider myself as capable of representing their interests, and as much more conversant with their views. These parishes have been united ever since 1812. They have a similarity of interests, and their populations are homogenious. There is a peculiar fitness in their remaining united as heretofore. The gentleman has intimated that there was some inconsistency in my voting to give two senators to the district composed of St. James and Ascension. I see no inconsistency between that vote and my present position. These two parishes composed a senatorial district under the old constitution, and I have voted to grant them an additional senator, because, as I stated on a previous occasion, I consider that representation in the senate should not be based on taxation, population and wealth alone, but upon all three combined. There will be a fraction over after allowing two senators to Assumption, Lafourche, and Terrebonne, and that fraction may be transferred to Attakapas, in conformity with what I conceive to be a very just rule.

Mr. MILES TAYLOR called for the yeas and nays to constitute the Lafourche parishes into one senatorial district, with two senators, and the result was as follows:

Messrs. Auburt, Brumfield, Benjamin, Burton, Boudousquie, Bourg, Briant, Cade, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendré, Lewis, Marigny, Mazureau, Prescott of St. Landry, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry,

Voorhies, Wadsworth, Winchester and Winder—38 yeas; and

Messrs. Brazeale, Beatty, Brent, Chambliss, Covillion, Downs, Humble, Hynson, Ledoux, McCallop, McRae, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt—25 nays.

Mr. Chinn moved that the county of Iberville remain constituted as in the constitution of 1812, and be entitled to two senators. He said that upon reference to the statement prepared by the sub-committee, it appeared that the parishes of Iberville and West Baton Rouge contained a total population of thirteen thousand one hundred and thirty-three souls. The total amount of taxes contributed by these parishes was sixteen thousand seven hundred and eighty-one dollars and ninety-two cents. It is true that this amount is not quite equal to that contributed by St. James and Ascension, but there is no material difference, either in regard to the taxation or the population. Perfect equality, as has been well said, is not attainable. These parishes are rapidly on the increase. They were allowed one senator in 1812, and it seemed to him that the augmentation of another senator was not asking too much. There was an identity of interests and a similarity of feeling between the population of the two parishes, and it was their unanimous wish that their political association should be continued.

Mr. Voorhies said he had no objection to make to the motion of the delegate (Mr. Chinn) that the parish of Iberville should have two senators, provided that this senator should not be taken from the county of Attakapas. The total population of Attakapas, according to the statement made by a committee of this house, was twenty-five thousand four hundred and sixty-five souls. The population of St. Mary and St. Martin was seventeen thousand six hundred and twenty-four. The parish of St. Martin paid nine thousand seven hundred and ninety-four dollars and eighty-nine cents, and the parish of St. Mary eleven thousand six hundred and ninety-five dollars and ninety-five cents, making a total of twenty-one thousand four hundred and ninety dollars and eighty-five cents. On the score of territory they maintained a high pre-eminence. A great deal of valuable land still remained uncultivated. If any district were entitled to two members, it was a district composed of St. Mary and St. Martin.

Mr. Chinn had not the least doubt of the correctness of the statement of the delegate from Attakapas, (Mr. Voorhies) and if it were proper for him to commit himself, he would now declare his intention to vote that the united parishes of St. Mary and St. Martin should have two senators. The increase in population and wealth of the district he had the honor, in part, of representing upon this floor, clearly entitled it to two senators. Its united territory was extensive and fertile; its population was steadily on the increase. In the smaller parish—the parish of West Baton Rouge, this increase of population was more particularly remarkable, and was evidenced by the increased vote given at the recent elections. It gave at the last elections three hundred and thirteen votes.

Mr. Brent would remark that if we kept on increasing the number of senators at this rate, we would not stop until we had reached sixty or one hundred members for the senate. There were several large districts better entitled to two senators than the parish of Iberville, that claimed but one. He instanced the parishes of St. Landry and Rapides, and yet these parishes were satisfied with one senator each.

Mr. Lewis moved to add the parish of Point Coupée to Iberville and West Baton Rouge, and to allow two senators to that district.

Mr. Ledoux said that the parish of Point Coupée was clearly entitled to one senator. The people of that parish had voted with great unanimity for a Convention, which they would not have done had they thought they would be deprived of their voice in one branch of the legislature. The Convention had no right to deprive the parishes of the representation they enjoyed under the old constitution. Such a course would be exceedingly unjust, and might interfere with the ratification of the new constitution.

He (Mr. L.) commented upon the injustice of the representative apportionment in allowing Point Coupée but one member of the house, when she had as large a popu-

lation as Plaquemines, to which three had been allotted. Mr. L. then read a number of statistical statements, to show that Point Coupée was in every respect entitled to ample representation, both in the house and senate.

Mr. Ratliff remarked that Point Coupée had adhered rigidly to the constitution in voting, and hence the vote bore but a small proportion to the population. That parish had a large extent of territory, and from his personal knowledge ought to be continued as a separate senatorial district.

Mr. Labauve agreed with Mr. Ledoux, that Point Coupée should have a separate senator, and should not be united with West Baton Rouge and Iberville. There was no connection, political or otherwise, between them, and an amalgamation was altogether to be deprecated. He hoped Mr. Lewis' motion would not prevail.

Mr. Lewis withdrew his motion.

The question was taken on constituting the parishes of Iberville and West Baton Rouge one senatorial district, and it was carried in the affirmative.

The question then recurred on allowing two senators to that district, and the yeas and nays being called for,

Messrs. Benjamin, Boudousquié, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Kenner, Labauve, Ledoux, Legendre, McCallop, Marigny, Mazureau, Pugh, Roman, Saunders, Scott of Baton Rouge, Waddill and Winchester—23 yeas.

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Covillion, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, King, Lewis, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstrandt and Winder—38 nays.

Mr. Read moved that the parish of East Baton Rouge compose one senatorial district, and that this district be entitled to one senator. He said that in 1812, one senator had been accorded to the parish of East Baton Rouge. Her increase in population and in wealth had been very great; her present population was placed upon the statement made by the committee upon apportionment, at eight thousand one hundred and thirty-eight. She contributed in taxes nine thousand four hundred and twenty-nine dollars; and at the last presidential election, she gave seven hundred and twenty-four votes. She had an incontestable right, whether we consider population, extent of territory or taxation, to a senator, and he presumed no objection would be made to his motion. His motion prevailed.

Mr. Ledoux moved that the parish of Point Coupée compose one senatorial district, and be allowed one senator. He said that this body were assembled for the purpose of enlarging the liberties of the people—not to restrain them. If the number of senators for other districts are to be increased, it must not be done by taking away the senatorial representation accorded to any district by the old constitution. Far better would it be to augment the number of senators beyond thirty-two, than to create dissatisfaction by an act of positive injustice.

The motion to make the parish of Point Coupée a district, and to give it one senator, prevailed.

Mr. Covillion moved that the parish of Avoyelles compose a senatorial district, and be entitled to one senator.

Mr. Boudousquie was disposed to vote in favor of this motion, if the gentleman from that parish would submit some data showing that the parish of Avoyelles was entitled to a distinct senatorial representation.

Mr. Covillion said he would cheerfully communicate the information asked for by the gentleman, (Mr. Boudousquié.) The population of Avoyelles was six thousand six hundred and six, according to the statement lying upon the desks of members; it contributed six thousand four hundred and ninety-four dollars and ninety-two cents of taxes. From some local causes, its resources had but recently began to be developed. Its lands were fertile, and if it were not, strictly speaking, under the basis entitled at present to claim a distinct senatorial representation, it would, in the course of a very few years, have an excess, both of population and taxation, which would entitle it to more than one senator.

Mr. Brent bore his testimony in favor of the statement made by the delegate (Mr. Covillion.) The territory of Avoyelles

was vast and fertile. Its natural position separated it from the contiguous parishes. It was true, that in reference to present population and taxation, it was not entitled, perhaps, to a distinct representation. But the principle had been adopted in relation to other sections of the State, that the excess of the population of one parish over and above the number necessary to entitle it to a senatorial delegation, should be transferred to another contiguous parish having a less population. If this principle were observed in the present instance, Avoyelles would be entitled to one senator, inasmuch as Rapides would be entitled to one senator, and have over and above a sufficient fraction remaining to transfer to the parish of Avoyelles. It was clear that united together in one senatorial district, the two parishes would be entitled to two senators. The only result would be, that if the gentleman's motion prevailed, they would vote separately, and there would be one senator for each parish, which met the concurrence of the people of both parishes.

Mr. Lewis was opposed to single districts on principle, and wished, whenever it was practicable, to give two senators to each district. He was, moreover, unwilling to arrange the district so as to require more than thirty-two senators.

Mr. Kenner said, that the parish of Avoyelles, together with the parish of Rapides and the parish of Catahoula, had heretofore formed but one senatorial district. He was averse to small districts. If these parishes be entitled to more than one senator, let them have the benefit of an increase; but let them remain as heretofore, united in one district. There was a great deal of force in the remark of the delegate from Lafourche (Mr. Guion) that districts with single senators, were objectionable, because they placed too much power in the hands of a single person in relation to the confirmation of appointments.

Mr. Covillion, in reply to the delegate (Mr. Kenner) would remark, that when a similar question came up in relation to the parishes of Ascension and St. James, the gentleman considered it an improper interference for other delegates to meddle with the wishes of the members from parishes that desired, for convenience sake, to be united. That delegate said it was a family affair. Is not this as much a family affair? The gentleman has shifted his position now, that he is beyond his locality.

Mr. C. M. Conrad thought there was a material difference between the two cases. In the case of the parishes forming the county of Acadia nothing was sought but to continue that district as it was in the old constitution, and to give it an additional senator. But in reference to Avoyelles, the matter was materially different. That parish was lopped off of a district composed of three parishes, with the view of creating it into a separate senatorial district. Its total population was only six thousand six hundred and six; while the total population of Ascension and St. James was fifteen thousand four hundred and ninety-nine. The contribution in taxes, of Ascension, was six thousand four hundred and ninety-four dollars and ninety-two cents; the contribution of St. James alone was nine thousand seven hundred and seventy-three dollars and sixty-seven cents, nearly double the amount paid by Avoyelles. Surely there was no similarity between the claims of St. James and Ascension and those of Avoyelles. I regret, said Mr. Conrad, that I am under the necessity of voting against giving a separate senator to Avoyelles, but I cannot vote in favor of it in conformity with any principle.

Mr. Boudousquie was ready to do justice to the claims of any parish. But really he thought that Avoyelles could not reasonably expect to have a distinct senatorial representation. Both in population and taxation she was deficient. The parishes of St. Charles and St. John the Baptist had been continued as a senatorial district, and were allowed but one senator, and yet they contributed in taxes thirteen thousand five hundred and thirty-seven dollars, more than double the amount paid by the parish of Avoyelles. Their united population was ten thousand four hundred and seventy-six; while the total population of Avoyelles was only six thousand six hundred and six. It was unfair to allow them but one senator, and Avoyelles one. It would not be in consonance with the principle of equality and uniformity. Let the same couse be adopted in relation to Avoyelles as was adopted for the county of German coast; and inasmuch as it has not by itself the requisite essentials to be a sepa-

rate senatorial district, let it be united with some adjacent parish. It might be united with the parish of Catahoula, whose total population is four thousand nine hundred and fifteen, and which contributes a tax of two thousand nine hundred and thirty-nine dollars and ninety-five cents. These two parishes combined would be entitled to a senator.

Mr. Benjamin said that inasmuch as it appeared to be conceded that that the parishes of Rapides and Avoyelles combined, were only entitled to two senators, he saw no objection to allowing them to choose one senator each. It was true that the parish of Avoyelles had neither the requisite population nor the requisite taxation to entitle it to a senator. But on the other hand, Rapides had more than the requisite population and taxation to constitute her into a senatorial district. The excess of her population could be carried to the account of Avoyelles. He would have no objection to this, were it distinctly understood that the two parishes should not have more than two senators.

Mr. Voorhies said with this condition, he would have no objection to allowing a senatorial delegation to Avoyelles; but if hereafter more than one senator for Rapides were claimed, he would move to reconsider the vote creating the parish of Avoyelles into a separate senatorial district.

Mr. Claiborne could not vote in favor of granting a distinct senatorial delegation to the parish of Avoyelles, because it was evident that she was not entitled to it. If Avoyelles were united to the parish of Rapides, for the purpose of forming a senatorial district, he would vote to give to that district two senators, because the population and taxation of Rapides and Avoyelles united would entitle them to that representation. But to make Avoyelles a particular favorite, and to show in her behalf an unjust preference over other parishes, was what he could not assent to.

Mr. C. M. Conrad would remark that we were not here to act upon the diplomatic negociations entered into by the representatives of different parishes, with the view of arranging their respective claims. He doubted much whether the delegation from Rapides were authorised to make any such concession as had been intimated in this debate. That parish was allowed one senator, because she had the requisite population and contributed the requisite amount of taxation; over and above that it appeared she had a fraction, and she was clearly entitled to have that fraction represented, by uniting it with some other parish, that had not by itself the requisite population.

Mr. Voorhies said he was well acquainted with the parish of Avoyelles. It was true, as stated by the delegate from New Orleans, (Mr. Conrad) that it was a portion of the State which had been settled many years ago. But from local causes it had made little or no progress until within the last ten years. He had been there when it was a wilderness. He was well acquainted with its topography. He had returned within a recent period, and was really astonished at its advancement. Plantations were opening on all sides, and population was flowing in steadily. If the parish of Rapides contained a greater extent of territory, some deduction would have to be made for a considerable body of pine lands which would not be very availrble to culture; whereas there was but little of the territory of Avoyelles which would be a waste; its lands were very productive, and from their fertility he doubted not that Avoyelles would become one of the wealthiest parishes of the State. Anciently but little was done in the way of cultivation. The old settlers followed the chase, and one of them, who was very well known and who traded with New Orleans, Jean Pierre Lemoine, acquired in that occupation one hundred thousand dollars. It was not at all unlikely that in the end, Avoyelles would outstrip Rapides by the extent of her productions.

Mr. Chinn said he could not consent to give a distinct senatorial delegation to Avoyelles, because it was evident it was not entitled to it, either in reference to population or taxation. He would renew the motion, that the parishes of Catahoula and Avoyelles form one senatorial district, with one senator.

Mr. Boudousquie said, that he had suggested the union of these parishes. But his attention had been called to the physical obstructions that existed against such an union. By reference to a map, he saw that it would be extremely inconvenient to the inhabitants, and might operate to their

detriment. He would sustain the union of Avoyelles and Rapides in the formation of a senatorial district.

Mr. WALKER, with the leave of the Convention, would make a few explanations in relation to the peculiar positions of Avoyelles to the other parishes, with which she had heretofore been united in the formation of a senatorial district. The parish of Avoyelles was in fact an isolated parish. She was divided by physical causes from both Rapides and Catahoula. It was extremely difficult to pass over at times, to or from her territory, to that of the adjacent parishes. Nature had evidently designed that she should have a distinct political representation from that of the surrounding country. In reference to any present disparity, either in her population or taxation, he would remark that this was but transient. She was destined at no distant day to excel both in population and in wealth, and would in the end, probably outstrip the parish of Rapides. Being well acquainted with these facts, and as a delegate from the district which embraced this parish, he had deemed it not improper to offer these explanations.

Mr. CHINN said he could very well divine the object of the present effort to make Avoyelles a senatorial district. When this was accomplished, Rapides would be constituted into a senatorial district. Here we have two senators where there has heretofore been but one. But that is not yet all; a portion of the ancient district, to wit: the parish of Catahoula has been kept in reserve for the formation, with perhaps some contiguous territory, of a third district.

The yeas and nays were called for, on Mr. Covillion's motion to constitute the parish of Avoyelles into a senatorial district, with one senator.

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Garrett, Hudspeth, Humble, Hynson, King, Ledoux, Lewis, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Winder—40 yeas; and

Messrs. Aubert, Boudousquie, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Guion, Kenner, Labauve, Legendre, Mazureau, Pugh, Roman, Saunders, Wadsworth and Winchester—19 nays.

Whereupon, the Convention adjourned.

FRIDAY, March 28, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. NICHOLSON.

The journal of yesterday was read and approved.

ORDER OF THE DAY.

The majority report of the committee on the division of the State into senatorial districts.

Mr. CADE moved to take up that part of the report apportioning the eighth district, constituting the parishes of Opelousas and Attakapas.

Mr. DUNN rose to a question of order, contending that the section apportioning the Florida parishes was the proper question before the house.

Mr. LEWIS differed in opinion with the delegate from East Feliciana, (Mr. Dunn.) He thought it was in order to take up any part of the report, and contended that it was against all principles either of fairness or etiquette to give a preference to the new parishes over the old ones. He conceives that the old parishes of the State should be fairly apportioned first, and then we should proceed to divide, on the same principles of fairness, what was left among the younger parishes. This courtesy demanded. Mr. Lewis illustrated it by saying that the Congress of the United States pursued that course, as the old thirteen States take the precedence and are always called first; so it should be here. In this there can be no injustice to the Florida parishes, for there is no danger of their not getting what they are fully entitled to. He hopes Mr. Cade's motion will prevail.

Mr. DUNN thought that was a strange argument; for his part, he said he was of opinion that the Florida parishes were fully equal to, and just as much deserving of attention, as any of the older parishes.

Mr. Lewis replied, that he had not said they were not equal, but that they were younger, and that it was nothing but an act of courtesy in the younger parishes to give way to the older ones, when no unfair advantage was ever dreamt of towards them.

Mr. Dunn still insisted that no distinction ought to be made, and hopes the Convention will proceed as they are going on, and take the parishes in the order reported by the committee.

Mr. Cade remarked that his desire in calling the attention of the Convention to this matter was, that he was anxious, before they proceeded further, to suggest a change in the district; and that if they proceeded in the order laid down, they could not cleverly do so, particularly as the committee had reported his section of the country as the very last deserving of consideration, and if they proceeded in the order laid down, he could not well accomplish what he aimed at.

Mr. Brent remarked that the change could be made as we progressed with the report.

Mr. Ratliff was also in favor of proceeding with the report as it stands. He will have no objection if sufficient reasons can be adduced to change any part of it. He wants nothing for his district of country but what is just, fair, honorable, and right. He regrets to hear the arguments advanced on this floor, that new parishes coming into a State should be regarded in the light of a step-mother in a family. Let us look, (said Mr. R.,)at the constitution of the United States, and that tells us that all the new States, when admitted into the Union go in on an equal footing with the old States. The same rule then should apply to those parishes in our State that have been taken in under the treaty. The mere calling over the names of the old thirteen States in Congress first, amounts to nothing; it is a simple matter of courtesy, which has been regarded in the same light that gentlemen daily practice, that is, always to give place to an old man, who claims attention first. But, Mr. President, (said Mr. R.) I go further than that, and say that I do not think it is right we should give way, when we have reason to believe that the rights of our constituents are in danger; and I feel, sir, like the venerable Mr. Thomas, who formerly, in contending for the rights of the Florida parishes, when it was contemplated to deprive them of equality of representation, remarked that they should not take him out of the hall while defending those rights, unless it were feet foremost. Now, sir, I say that so long as I have power to stand, and raise my voice in this hall, that I will not, cannot, be driven off from maintaining the rights of those parishes. Men talk here as if we wanted some advantage. Sir, we want no advantage, but want justice; we are not afraid to ask it, and you are bound to give it.

The question was then put on Mr. Cade's motion, and the same was carried.

A discussion then arose, whether or not a dispensation of the rules was necessary to take up the question out of the ordinary course.

The President decided that a majority of the Convention had clearly the right to take up any part of a report which they saw fit to, not previously acted upon. The Convention then proceeded to the consideration of the senatorial representation of the counties of Opelousas and Attakapas.

Mr. Cade moved to add to the parish of St. Landry, the parish of Calcasieu, make the same one district, and allow her two senators. He conceived it was nothing more than what they were justly entitled to, and so thinking, he pressed his motion to the attention of the house.

Mr. Lewis then moved, that the parishes of St. Mary and St. Martin should form one district, and be entitled to two senators.

Mr. Cade then proceeded to divide them, and allow the parish of St. Mary to elect one senator, and the parish of St. Martin the other. He urged that the parish in its population, wealth, and importance, has a right to a separate conservative voice in the upper house.

Mr. Tayor regretted to oppose the honorable delegate from Lafayette, (Mr. Cade) but yet he was bound to do so on principle. He has always regarded the question thus, that the senate is the body where the minority looks to for protection against any encroachment on the part of the majority; and therefore, that is not likely to be accomplished, if we elect the representative and senator by the very same

votes; for if we do, there will then be no check; both being elected by the same popular vote, they will be bound to, and doubtless will, act together, without regard to any other than sectional interests—the very thing intended to be guarded against. He therefore moved that the parishes of St. Mary and St. Martin form one district, with two senators.

Mr. Splane had hoped that this Convention would not have interfered in family matters, and as such, he regarded this question. He remarked that the parish of St. Mary was every way entitled to what she asked at the hands of this Convention, under the very principle upon which we have heretofore acted. She is entitled to it upon any basis, (whether it be population or taxation) which is to be regarded in this matter. In the first place, she has a population of over nine thousand. In the second place, she paid into the State treasury in 1843, twelve thousand dollars, and in 1844 over fifteen thousand dollars. He (Mr. Splane) hopes that this Convention will permit the members from the Attakapas and Opelousas counties to divide out the senatorial districts in their section, as to them may seem most fit, and the most in accordance with the wishes of the people, whom they represent.

Mr. Dunn was desirous of making a few brief remarks in reply to the gentlemen who had addressed the Convention on this subject. He was of the same opinion as the delegate from Assumption, as to small senatorial districts being decidedly not in accordance with the spirit of our institutions; and which heretofore has been so happily illustrated in large districts being so much preferable, because minorities are thereby always protected by the safeguard thrown around their rights, in the check afforded to them through the senate, over the acts of the popular branch of the government. He (Mr. Dunn) was momentarily in expectation that the same question would be started, as regards the senatorial delegation of East and West Feliciana, and he therefore takes this opportunity, as the question is precisely similar, to express his dissent to any such division. He thinks that it is in accordance with sound reason, that the same people who elect representatives to the lower house, should not alone elect a senator; and why? Because if you do, where is the very thing we profess to aim at, the check? A senator is a much higher, a much more dignified officer than that of the representative of the lower house. He is clothed with far more delicate and important powers; he acts not only as the judge in the bestowal of subordinate offices upon the governor's recommendation, but he is liable to be called upon at any moment to sit as a judge in cases of impeachment. How much more important then are his duties, than if he were to be governed by local interests and feelings; and how much more necessary to separate him from any such local influences? A senator should be a man thinking of no particular spot; but of the weal and welfare of the whole State; the best evidence that can be given of the importance of such an office, is, that it ever has been deemed advisable to have such a check on the house of representatives; further, we see there is in cases of impeachment, a check upon that check; because a bare majority of the senate is not sufficient for conviction of the officer under trial; and why? It shows plainly that that proviso is placed as a check upon men who might either be actuated by improper motives, or from sectional feelings; for that reason, and from the fact that two-thirds are required for conviction, it is apparent that it is necessary to restrict even them in their power, whenever we can do so, for we thereby the more effectually keep them independent of local feelings and prejudices; evidently the thing most feared in all deliberative bodies. He (Mr. Dunn) believes that the interests of the State require that the senatorial districts should be extended as to territory, and diminished as to numbers. It makes senators more independent, they take a bolder and more enlarged view of the interests of the State, than if they were to be held accountable to any one parish; and they then feel that they are indeed the conservative branch of the government.

It is for this reason that he is opposed to any separation in the parishes of St. Mary and St. Martin. As they will have their elections every two years for one of the senators, and as they have pretty much an identity of interests, they should be kept together. He thinks it important that the

representation should be confined, if not into large, at least into convenient districts.

Mr. Taylor, while he is not desirous of discussing this subject, cannot see the benefit to result from it, which is claimed by some of those who wish it; but certainly for the reasons which he has heretofore assigned, whenever any proposition is made to connect two parishes together, as a senatorial district, such as St. Mary and St. Landry, he shall always vote for it, because he thinks it important for the maintenace of the check which ought always to be in the senate over the acts of the lower house.

Mr. Ratliff is of opinion, that two senators being allowed to St. Mary and St. Martin, with a population of seventeen thousand six hundred and twenty-four, is disproportionate, when it is considered that St. Landry alone has a population of fifteen thousand two hundred and thirty-three, and that therefore she will claim likewise two senators. In the parishes of East and West Feliciana, with a population of twenty-two thousand seven hundred and twenty-two, and paying into the treasury twenty-five thousand seven hundred and forty-four dollars, they might with the same propriety claim three senators; but although those two parishes have that excess, he does not claim it for them. Then why give it to St. Mary and St. Martin? If we do not closely watch this matter, we shall increase the number beyond bounds. The ratio must be made according to population and taxation; and then if that rule be observed, how small the difference between St. Mary, St. Martin and St. Landry. We have already said that Point Coupée shall be entitled to one senator; West Baton Rouge and Iberville to one; and if we adopt the principle contended for, we are bound to increase the number of senators, rather than diminish them, unless we are guilty of gross injustice to some of the parishes.

Mr. Lewis desired to make a few remarks particularly to satisfy the delegate from West Feliciana, but more especially to show that the Attakapas and Opelousas members were asking nothing but what was fair and just. It is a matter well known that the parishes adjoining St. Mary and St. Martin, viz: the parishes of Assumption, Lafourche Interior, and Terrebonne, had a large fraction of population left in their district over and above what was considered as requisite to entitle them to two senators, and that those parishes were willing to accord that fraction to the parishes of St. Mary and St. Martin. The parish of St. Landry moreover had no idea of being divorced from the parish of Calcasieu in her political ties of connection; and it was also worthy of remark that the parishes of St. Landry and Calcasieu formed an amount of territory not inferior to the old parish of Natchitoches, now divided into six, seven, or eight parishes. It is true that the population is not so great as is to be found in other parishes, but there can be no doubt that St. Mary, St. Martin, St. Landry, Lafayette and Vermillion are justly entitled, when you add the parish of Calcasieu to them, to five senators. Let gentlemen examine their statistics on this subject, and their fears will vanish, as to our getting more than we are entitled to. Instead of Calcasieu and Sabine forming one district with one senator, join Calcasieu to St. Landry, and accord them two senators; that would be fair and reasonable; and for the same reason he thinks when you take into consideration the amount of population, and the large amount of property in the parishes of St. Mary and St. Martin, that they are also fully entitled to two senators.

Mr. Brent proposed a division of the question.

Mr. Voorhies objects on the ground that it is not called for, and is, moreover, inexpedient and unnecessary. He represents the county of Attakapas, consisting of four parishes—St. Mary, St. Martin, Lafayette and Vermillion, and he knows that to divide the two former parishes is unnecessary; formerly they were one parish; there are no water courses to divide them; it is the same country, and peopled by the same class of citizens, having one common interest. Yesterday he had advocated the separation of Rapides from Avoyelles on the ground that they were separate and distinct communities; and even in this case he might not have any material objection, if it were considered a matter desirable to his constituents, but the members from St. Martin were opposed to it, and as he could see no possible advantage to be derived

from the separation, and feeling that no injustice would be done to any of them by remaining together, he should vote to keep taem united as a district. It is very certain that they are entitled to two senators, particularly when it is known that what Lafourche loses she is willing to accord to those parishes.

Mr. CADE withdraws his motion,and accepts the one offered by Mr. Taylor, to keep the parishes united as one district with two senators.

Mr. SPLANE then pressed a division. He contended that they were not united; that their interests were not identical, St. Mary being a parish exclusively engaged in the cultivation of sugar cane, while St. Martin was considerably engaged in the culture of cotton, and had also a large grazing interest. He remarked, therefore, that they ought to be separated; that St. Mary was rapidly filling up by emigration; that she had a population about equal to that of St. Martin; that her citizens were desirous of a separaie representation in the senate, and as such, he felt bound to press it on the considera.ion of the Convention, and therefore renewed the motion to divide.

The question was then put, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Chambliss, Covillion, Downs, Humble, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstandt—25 yeas.

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Cade, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Prescott of St. Landry, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Winchester and Winder—36 nays. So the motion was lost.

Mr. SPLANE then moved to attach Vermillion and Lafayette to the parishes of St. Mary and St. Martin.

Mr. CADE hoped the motion would not prevail, for the parishes of Vermillion and Lafayette were identical in interest—were as one people; and were fully entitled to a separate representation in the senate.

Mr. CONRAD remarked, that although he was generally in favor of large senatorial districts, he thought that such an apportionment would be unfair, and as such he opposed it.

Mr. SPLANE withdrew his motion, and then

Mr. MILES TAYLOR renewed his motion to constitute the parishes of St. Mary and St. Martin one senatorial district; and his motion prevailed. He then moved that the district be entitled to two senators; which motion being put, the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Cade, Carriere, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Roman, Scott of Baton Rouge, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff, Winchester and Winder—49 yeas; and

Messrs. Burton, Hynson, Marigny, Penn, Porter, Ratliff, Roman, Scott of Feliciana, Waddill and Wederstrandt—10 nays; so the motion prevailed.

Mr. O'BRYAN then moved that the parishes of Lafayette and Vermillion do constitute one senatorial district, and shall be entitled to one senator; which motion also prevailed.

Mr. LEWIS then moved that the parishes of St. Landry and Calcasieu should form one senatorial district, and be entitled to two senators.

Mr. DOWNS objected to the manner in which the Convention was proceeding. He thought it was decidedly better for them to go on in the regular way, as reported by the committee.

Mr. WADDILL most perfectly agreed with the delegate from Ouachita, that we are proceeding irregularly; but he objects on another and stronger ground to the motion before the house. In the first place, Calcasieu is not large enough for one dis-

trict by itself, and St. Landry has already got more than her share in the representation in the lower house. So has Calcasieu, under the system of representation we have adopted in the lower house; she has one, St. Landry five. He dislikes to see gentlemen not content with holding on to what they have, still eternally grasping at more political power. He feels convinced that the report of the committee is every way more just, and that it will be much fairer to constitute the parishes of Sabine and Calcasieu one senatorial district, than the amendment proposed.

Mr. Downs is of opinion that we are going on altogether too fast, and before we know where we are, we shall have passed the number we have agreed upon, thirty-two, and have made at least thirty-four senators.

Mr. Claiborne reminded the delegate from Ouachita, (Mr. Downs) that what had been granted to the parishes of St. Mary and St. Martin had been taken away from the parishes adjacent to New Orleans, and therefore could make no difference in the total number.

Mr. Ratliff insists, that if the motion prevail, it will give us thirty-three senators. Now gentlemen, he conceives, ought to be more candid, and not conceal their object until too late; if it be their intention to make sections of any particular portion of the country, why not come out and manfully say so? because, if they do, then they can be prepared to defend themselves. Now let us look on what pretensions this clause is founded? Forsooth, it is simply this, that the parish of St. Landry in consequence of the heavy burden she is under, in taking under her wing a parish having a population of one thousand six hundred and eighty-eight, and paying into the State treasury about one thousand six hundred and fifty dollars, should be entitled to another senator, beides the one allotted to her. She is, by the report, entitled to one senator; and by the apportionment in the lower house, to five representatives—together six; surely as much as ought, in the name of common sense, to be asked for her. The reason assigned for giving to Point Coupée one senator, was, that she was not fairly represented in the house of representatives; but the same thing cannot be said of St. Landry, for she is there fully represented, having five members allowed her. He (Mr. Ratliff) thinks he can now see through the movement in taking up the eighth district out of its regular course. He feels convinced that they expected to lead us along blind-folded and in the dark, and for the great and insuperable burden which they were to take upon themselves in the junction to their parish of another with the enormous amount of one thousand six hundred and eighty-eight in population, they were to be entitled to one additional senator. Why, neither of the reports asked for more than four senators for that district. The majority report asks for four, the minority three, and now they modestly insist upon five. There they are again, trying to get the lion's share; "*turkey for them*, all the time!!!" Going on at the rate and in the manner we are, we shall be involved in inextricable confusion. We have already run the house of representatives up to ninety-eight, when we have positively said that it should not go beyond one hundred. God knows where we shall stop, in the way we are progressing. Now we say the senate shall not exceed thirty-two, but if we give them the extra one they claim we must either increase the number, or else take it off from some other part of the country. In East and West Feilciana there is a population of twenty thousand and over, and they pay into the State treasury taxes to the amount of twenty-five thousand dollars and over. Now we are more modest than our friends of the prairie, for we only ask two. He (Mr. R.) warns gentlemen that our course will be any thing but satisfactory in making the senate so large a body; from what he (Mr. Ratliff) now sees going on, he expects nothing less than that there will be thirty-five or thirty-six senators created; and if the matter be not properly understood, and checked at once, he should not be surprised to see it reach the number of forty-five. The only plea they put in for the extra senator, is, that they take in the one thousand six hundred and eighty-eight citizens of Calcasieu, which he (Mr. Ratliff) thinks does not sustain their pretensions. He objects to increasing the representation in the senate, unless it be shown—first, that it is warranted by the population; and second, that the taxes paid into the State treasury give them some reasonable claim; for if we do

not adhere strictly to such a rule, we shall presently find the claims as thick as mushrooms of a summer's morning.

Mr. Voorhies thinks the delegate from West Feliciana is very unreasonable; he makes a great flourish of trumpets about his moderation, in asking but two senators for East and West Feliciana; but he has forgotten to tell you that he will modestly claim one senator for two parishes, in his darling district, Washington and St. Tammany, who pay together into the State treasury four thousand five hundred dollars; and that he will also claim one senator for the parishes of St. Helena and Livingston, who pay in taxes three thousand seven hundred. Now then, here are four parishes who contribute to the expenses of sustaining the government of Louisiana a little over eight thousand dollars, and with a total population of twelve thousand eight hundred and thirty-seven souls, and yet for these parishes it is thought perfectly right and fair to ask for two senators; while for those districts having twice the population, and paying three times the amount of State tax which they do, we are charged with being unreasonable when we ask for that to which we are fully entitled. Besides the section of country for which these two senators are asked, is one that is as thickly settled now as it ever will be, from the very nature of the country itself, it is bound to be stationary.

He (Mr. Voorhies) thinks it is nothing but just and fair to curtail the representation of those parishes, in the senate, who contribute so little to support the expenses of the State, and increase that of the parishes who bear the bulk of that burden. Besides there is no prospect of their ever getting in any better way; for the last ten or fifteen years they have not increased one jot, they have made no progress, nor is there any prospect of it; they will remain as they have been, in "*statu quo*," from now to eternity.

He regards all that is said by the member from West Feliciana, about his great moderation, as intended to mislead the members; for certainly if he did desire to have justice done in the premises, he would promptly say "take one member from the Florida parishes and add to the Opelousas district, for you are justly entitled to it; your country is rapidly filling up, and from the large body of your alluvial lands, you are bound to increase, not only in population, but in wealth and importance;" that is the way he would talk if he were sincere.

Mr. Lewis remarked that he was no prophet, and could not, like the honorable delegate from West Feliciana, predict what was to happen hereafter; but, looking at facts as they are, he thinks that the claim set up for another senator for St. Landry, annexing to it the parish of Calcasieu, is just, reasonable and fair. The county of Opelonsa is now entitled to one senator in a house of seventeen. She has always increased in wealth and population, as much as any other portion of the State. *Her territory* comprises *one-fifth* of the State of Louisiana.

The delegate from West Feliciana (Mr. Ratliff) states that we claim another senator, simply because we take into our district the parish of Calcasieu. There he is in error; for when you come to look into the matter, you will find that St. Landry is nearly herself entitled to two senators—whether you regard her population, or the amount she pays into the treasury—and that by adding Calcasieu to the district, she is most unquestionably and clearly entitled to it. The Lafourche district have an average of about nine thousand to a sentor; the Opelousas and Attakapas districts about one thousand more; and if it be intended to make a fair division, which was *preached yesterday*, and *is to-day*, by gentlemen around us, surely that which is good to give is good to take. If Attakapas is entitled to three senators, Opelousas ought to be entitled to two.

Mr. Burton expressed himself as really gratified to know that one member at least (Mr. Voorhies) had candor enough to admit what his intentions were, viz: to cut down the senatorial representation of the poor pine-woods parishes, to add to that of the prairie country. But while eulogizing the latter he has misrepresented the former; for it is by no means so poor a country as he describes it—the parish of Livingston contains some considerable bodies of fine and valuable lands. He (Mr. Voorhies) asserts that the pine-woods pay comparatively nothing into the State treasury, but he has forgotten to tell you that whatever *their* proportion of the taxes is, *it is always paid*, and is not like the rich

prairies of Opelousas, in debt for thirteen thousand dollars back taxes due the State. Poor, the citizens of the piney-woods may be, but they are a hard working, honest and industrious people; they pay what they owe, while others make a great fuss about what they are taxed, but forget to tell you that their taxes remain unpaid. He is opposed to cutting men down in their political rights on account of their poverty; but if that is the object and the cause, it would certainly be more fair to acknowledge it candidly at once. He protests against any such course as we are now pursuing.

Mr. RATLIFF remarked that he thought he might have been in error in asserting that the number of senators would be so largely increased, for he finds that the number so far, has not been increased over thirty-two, if no further change be made. The only question for us to consider in the matter before us, is the parish of St. Landry joined to Calcasieu, entitled to two senators? He does not think they are.

Mr. DOWNS insists that it will increase the number of senators to thirty-three, if this motion prevail.

Mr. CADE remarked, that what was taken off from the first district has alone been added to the eighth, and that when we add one parish to the district, if the other parish be joined to some other of the districts, there will then be no increase of the number.

Mr. PORTER is of opinion that by taking in the parish of Calcasieu, the district is really entitled to two senators, and shall vote for allowing that number to it, relying on the justice of the Convention not to take it off from any other part of the country without good cause.

Mr. CLAIBORNE regards it as a very plain and simple question—it is, whether it is more fair and equitable to give to Calcasieu and Sabine, who, together, pay taxes to the amount of three thousand six hundred dollars, and with a population of six thousand, a senator, or to give two to St. Landry and Calcasieu who pay, in taxes, sixteen thousand six hundred dollars, and whose population is about seventeen thousand three hundred. He (Mr. Claiborne) cannot hesitate in such a plain matter, and will vote for allowing the district two senators.

The question was then put, and resulted as follows, the yeas and nays being called for:

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Burton, Brumfield, Briant, Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Spláne, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—57 yeas; and

Mr. Abel Waddill voted in the negative—1 nay; consequently the motion was carried, and the district composed of the parishes of St. Landry and Calcasieu, with two senators, was adopted.

Mr. RATLIFF then moved to take up the report regularly, where we left it on yesterday, and beginning at the apportionment of East and West Feliciana, Washington, St. Tammany, Livingston and St. Helena.

Mr. WEDERSTRANDT moved a division of this district, and proposed that West Feliciana should form one district, and elect one senator.

Mr. DUNN opposed that motion. He thinks that East and West Feliciana are so closely identified together in interest and feeling, they have always acted together so perfectly, are of the same political family, and every way so harmoniously, that a separation is not called for. The people of these parishes have never, to his knowledge, shown any desire for this separation, and no possible good can result to the State. There are, it is true, a few more votes in East Feliciana than in West Feliciana, but the former have never interfered to the prejudice of the latter; in fact they are so much one family that it would be wrong to separate them. Both parishes hold their political meetings at Jackson with perfect good feeling and harmony; and while it is clear there is no necessity for a division, he hopes the motion will not prevail.

Mr. RATLIFF trusts that the Convention

will agree to the division proposed by his colleague, (Mr. Wederstrandt.) The delegate from East Feliciana must certainly have forgotten, when he said he never heard of a desire to have a separate senatorial district; for he (Mr. R.) had heard it repeatedly, and as the delegate from East Feliciana (Mr. Dunn) has, he knows, been frequently in West Feliciana on recent occasions, he could not have failed to hear some remarks on a topic so generally discussed. It is true, they are both democratic parishes, but when people are themselves desirous of the division, why deny it to them?

The population of East Feliciana is eleven thousand eight hundred and sixty-two, and pays into the treasury twelve thousand five hundred and ninety-three dollars State tax. That of West Feliciana, ten thousand nine hundred and ten total population, and pays State taxes to the amount of thirteen thousand one hundred and fifty dollars and forty-eight cents. There is scarcely any difference in the size and wealth of the parishes. The parish of West Feliciana has a front of nearly one hundred miles on the Mississippi river, and is divided from the parish of East Feliciana by a large creek. As it is the desire then of West Feliciana to separate, why should she not be indulged in her wish?

Besides, the honorable delegate from East Feliciana, (Mr. Dunn) who is about to remove from that parish to Baton Rouge, cannot be supposed to feel as deep an interest for the welfare of these parishes as he has done, while it was his permanent home. It is a well known fact that there is a bone of contention in East Feliciana, about dividing that parish, in which West Feliciana desires to take no part; she has no dissensions in her borders, and does not wish to be mixed up in a family quarrel. He (Mr. R.) regards that as a powerful reason for the separation. East Baton Rouge has a separate senator; Pointe Coupée, a little bit of a parish, has one; Avoyelles has one, which was magnanimously yielded to her by Rapides; and now a question is raised, when we reach the parishes of East and West Feliciana, whether the same favor should be extended to them which has been accorded to the others. The delegate from East Feliciana, (Mr. Dunn) has graciously remarked, that that parish has never tried to usurp power from West Feliciana, nor has she shown any jealousy of our prominent men. But suppose those feelings, heretofore so harmonious, were to clash? How then? Would it not be more clear and satisfactory for her to say, we have not only no desire to interfere with you, but we will place it out of our own power, by consenting to a division? Let them say, we set you free, and take away from ourselves every possible claim to do it hereafter. That is the way to show sincerity. He (Mr. R.) trusts that the house will accord to West Feliciana what she has already done to other parishes.

Mr. Scott of East Feliciana, then addressed the Convention.

Mr. President, (said he:) My situation here is a peculiar one; particularly so when I find myself in direct opposition to one o my immediate colleagues from the parish of East Feliciana. But, sir, I am here as the representative of the parishes of East and West Feliciana, and, as such, I am bound to act in this case as I believe strict justice to the two parishes requires. I have voted throughout this contest in favor of small senatorial districts, I believe a majority of my constituents are in favor of dividing those parishes into two senatorial districts, and believing thus, I feel constrained to urge a division of those two parishes, each to form one senatorial district, and hope the house will sustain me in doing so.

Mr. Chinn asked if he had correctly understood the delegate from East Feliciana, that a majority of the people in both those parishes desired the division.

Mr. Scott replied that he was so convinced.

Mr. Saunders remarked that he was opposed to the system of cutting up the senatorial districts into such small parts; for if the senators are elected by the same people as elect representatives to the lower house, there is then no check, and it does away with the necessity for the two houses. But in this case, (although it violates a rule which he regards an important one,) as the people of West Feliciana seem so desirous to be separated from us, he will vote for the motion of the delegate from West Feliciana, (Mr. Wederstrandt.)

Mr. CHINN, although he prefers large districts, from what he has heard, shall vote to separate the parishes, allowing each one senator.

Mr. LEWIS being opposed totally to cutting up the districts in such small parts, shall vote against the motion.

Mr. SPLANE, for the very opposit reason, shall spuport it,

The question was then put, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Waddill, Wederstrandt and Wikoff--34 yeas.

Messrs. Aubert, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Guion, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Winchester and Winder—26 nays; consequently said motion was carried, and the parish of West Feliciana constitutes one senatorial district, and is entitled to one Senator.

Mr. T. W. SCOTT then moved that East Feliciana shall constitute one senatorial district, with one senator, which motion prevailed.

Mr. MCRAE then moved that the parishes of St. Helena and Livingston, do constitute one senatorial district, and be entitled to one senator.

Mr. LABAUVE then moved to amend said motion by annexing the whole four parishes together, St. Helena, Livingston, St. Tammany and Washington, with one senator.

He contended that that was as much as they could in common fairness lay claim to. All, together, pay into the State treasury only eight thousand five hundred dollars of State tax, and have a total population of twelve thousand eight hundred and thirty-seven. Upon what principle of justice can they ask more? Iberville and West Baton Rouge are connected, and are only allowed one senator. Now let us compare the two districts, and ascertain, if we can, on what ground they set up their claims to two senators; whether it be on taxes, or population, or an imaginary rule, that they are entitled to them any how. The parishes of West Baton Rouge and Iberville have a total population of sixteen thousand seven hundred and eighty-three, which is four thousand more than the whole four parishes put together; and they pay into the State treasury, sixteen thousand seven hundred and eighty-one dollars, which is more than double what is paid in by those parishes which now claim two senators, when we were yesterday refused more than one. Why, the pay of the members which they will send to the legislature, will absorb pretty nearly the amount of the taxes they pay. Gentlemen ought to be consistent, and on the same ground that they refused it yesterday to his district, expect to be dealt with today themselves. He therefore, shall press his motion on the Convention, to make the whole four parishes into one district, with one senator.

Mr. WADSWORTH saw very clearly, that some were desirous of playing a game of grab, if we are to take any basis into consideration, as a proper starting point, for representation in the senate. The district in which Plaquemines is situated, and which has been refused more than one senator, is more entitled to two, than the whole four parishes put together; whether on the score of property, territory or taxation. She pays into the treasury twelve thousand one hundred and seventy-four dollars in taxes; two thousand two hundred and eighty-nine dollars taxes on professions; together, fourteen thousand four hundred and sixty-three dollars. And her wealth in property, is assesed at two millions eight hundred and twenty-seven thousand dollars. Now how do these four parishes together, compare? Why, they pay into the treasury eight thousand five hundred dollars State tax; and property assesed at one hundred and thirty-two thousand and seven hundred dollars; hence it is clear that Plaquemines district doubles them in every respect. It is admitted that the senate is constituted as a check upon the house of representatives, and for the protection of property, and every body understands that property is the most vital

thing in the world to protect. Besides, it is a country that will never improve; it can never increase, because it is a poor miserable barren soil. Why, you can scarcely grow cow-peas on it. He recollects hearing, that a gentleman who was travelling through that country not long since, heard a sound resembling a moan of some female in distress; he pushed on more rapidly, and as he progressed some miles, the sound gradually became more distinct; at last he came up to the spot where it proceeded, and lo! he found that it was caused by a weed which was trying to grow. And yet it is for such a country that we are to be despoiled of our just rights. We are refused two senators, to which we are justly entitled, to satisfy the modest pretensions of the pine woods inhabitants.

Oh! shame!! where is thy blush?

Mr. Ratliff replied to the remarks of the delegate from Plaquemines, (Mr. Wadsworth). He remarked that he had not known what it was to have the blush of shame on his face; that all the declamation of the gentleman from Plaquemines, his sneers or denunciations, (or those of any member from any other portion of the State,) should not deter him by their unnecessarily severe remarks, to falter in the performance of what he conscienciously believed to be his duty to his constituents. But while he stood up to defend the rights of the Florida parishes on this floor, he did not wish, nor would he suffer any of those who make such a great pother and fuss about allowing the *poor piney-woods parishes* two senators, to rest, until he had shown them two things; first, that what is fair for one, is fair for another; or as has been observed here to day, "what is good to give is good to take." Second, that it is not wrong to be generous, provided, in doing it, you be also just.

Now Mr. R. contends that we have not, nor do we desire to depart from any just rule, when we ask you to protect the four parishes from the avarice and cupidity of those parishes that are richer..

He will endeavor to offer such arguments to this Convention as shall at once satisfy them that he is right. It was well known that when we came to the apportionment—not only of the house of representatives, but of the senate—that we should have much difficulty; and to his (Mr. Ratliff's) mind, this is the very time to settle it. We are, it is true, a little too much excited, but as he shall advance nothing but what the figures will prove, he thinks he shall rather allay it than otherwise. Now the district reported by the committee, which was to have been one district, in being divided ought not to lose any thing that she would have been entitled to in the aggregate. Let us see what the figures say. Why, that the parishes of East and West Feliciana, St. Helena, Livingston, Washington and St. Tammany, have a population of thirty-five thousand eight hundred—about nine thousand to a senator; that they pay together into the State treasury thirty-four thousand two hundred and ninety-five dollars, State taxes; something over eight thousand dollars for each senator claimed. Now if it be true that the bulk of this population, and the largest amount of the taxes be paid in the two first mentioned parishes, and they are disposed, as they are, to give the other parishes in the Florida district the surplus they have over and above what would entitle them each to one senator, why should they not have the right to do so? Notwithstanding the piney-woods people are not as rich as some other parts of the State, they are a virtuous and correct white population, and as such they are entitled to our protection in their rights. In the aggregate then these six parishes are entitled to four senators, and if East and West Feliciana are satisfied with two, no objection should be made in giving the other two to the remaining four parishes.

St. Mary and St. Martin pay short of ten thousand dollars of taxes each, and the Florida parishes average about nine thousand dollars; and if the *bulk of the taxes* be paid in some few, we are yet *one people*. He asks for the Florida district nothing but even-handed justice; and she is justly entitled to four senators; as to the division that is a matter of no moment. The original report gives us four, and the substitute gives us also four; why then should there be any objection? He has heard of none except from the honorable delegate from Iberville, (Mr. Labauve) and he can hardly think that he is sincere.

Mr. Dunn agreed that the large fraction created by the division of East and West Feliciana, should be given to the eastern parishes in the district.

Mr. Splane remarked that he was in favor of allowing the four parishes two senators. It is perhaps true that there is not population enough in those parishes alone but East and West Feliciana, and East Baton Rouge, have each large fractions over, which she is clearly entitled to the benefit of. The honorable delegate from Plaquemines (Mr. Wadsworth) has indulged us with a humorous story about a weed trying to grow there, making a piteous and mournful noise in the struggle for its life and progress. Now it is the first time that he ever heard of vegetable matter emitting sound from poor land. He has heard people say, in the rich alluvial bottoms, they could hear the corn grow, but he never heard of it in poor lands. He should vote for allowing her two senators, moreover as a compliment, for it was in that region of country he drew his breath, and this was the first time he had ever had it in his power to repay her by one single act of gratitude. He feels proud that he now can do so. They are not either as poor a country as the gentleman represents; there are many fine bodies of land in parts of it, which produce sugar cane and corn to as great profusion as in any part of Louisiana.

Mr. Chinn, in opposing the motion, is governed by a sense of conscientious duty. He knows the population and resources of the parishes, and knowing them, as he does, he is bound to take that course. Although he feels indisposed to say any thing that can operate against that portion of the country, yet he cannot disguise it from himself that the total population of them is short of thirteen thousand, and that they only pay into the treasury a sum short of nine thousand dollars. It is not a country likely to grow either in population or in wealth, as results have proved, taking the census of 1840 compared with the present number of their population.

Mr. Ratliff desired to call the attention of the Convention to a few more figures that would throw additional light on the subject. West Baton Rouge, Iberville, Point Coupée and East Baton Rouge have a population of thirty-five thousand seven hundred and seventy-five, and pay forty-three thousand two hundred and ninety-seven dollars taxes. The six Florida parishes have a population of thirty-five thousand eight hundred, and pay thirty-four thousand dollars taxes. The difference then is alone in the amount of taxes, while the population of the latter is greater. He mentions this fact to show the injustice there will be in rejecting the motion before us.

Mr. Penn then addressed the Convention. He contended that equity and justice demanded, according to any basis, that a senator should be given to the parishes of St. Helena and Livingston; and therefore he trusts the motion of the delegate from Iberville (Mr. Labauve) will not prevail. Their population, territory and extent of their voters, entitle them to it. While it is true that a portion of their lands are poor and unproductive, it is nevertheless equally undeniable that there are other portions, in Livingston particularly, which are rich and fertile, and which can be extensively cultivated in raising the sugar cane and cotton, and therefore we may reasonably look forward to an increasing population for her. St. Helena is also increasing, and has a white population equal to that of St. James. He (Mr. Penn) calls attention to the fact, that St. James gave in November last only five hundred and thirty-two votes, and has a territory of three thousand square miles; while St. Helena and Livingston gave seven hundred and five votes, and has a territory of at least one thousand and three hundred square miles;—upon what principle of equity or justice can they refuse to give one senator to St. Helena and Livingston, when they gave St. James one? He (Mr. Penn) is one of those who does not think that slaves, regarded as property, should be entitled to any representation. Let us see how Iberville and West Baton Rouge compare with St. Helena and Livingston. In the former they have a white population of one thousand three hundred and twenty-three, in the latter one thousand three hundred and seventy-one—together two thousand six hundred and ninety-four, and poll seven hundred and ninety-three votes; while in St. Helena and Livingston their white population is not far from four thousand, and they poll seven hundred and five votes; and yet while they refuse those two parishes one senator, they claimed yesterday one for each of their parishes. It is true they pay more taxes, but that is not a principle in

republican governments, to base representation on. How can those who voted to give one senator to St. John the Baptist and St. Charles, refuse it to St. Helena and Livingston? At no distant day, St. Tammany and Washington are destined to become the suburbs of New Orleans, and so rapidly are they increasing that at the last election they gave two hundred votes more than were cast in West Baton Rouge and Iberville, and yet they contend that those parishes are not entitled to one senator as much as *they* are to two. St. Tammany contains nine hundred square miles, is sixty miles long and ninety miles wide; people are constantly settling in it from New Orleans, and a part of it is as rich as any part of Plaquemines. So fine is the land between the two islands, that recently as many as fifty families have settled there. He trusts, after this statement of facts, the Convention will readily agree to allow them two districts between the four parishes, each district with one senator.

Mr. Taylor enquired from the President whether it was proposed to unite them all in one district.

The President replied that it was.

Mr. Taylor was opposed to giving St. Helena and Livingston one senator, whose joint population was only five thousand seven hundred and odd; but if the four parishes were united, he would vote to give them two senators.

Mr. Wadsworth asked on what principle he assumed to be so generous?

Mr. Taylor replied that he did not regard population alone, but thought territory should also be taken into consideration in the apportionment of the senate. He had acted and voted on the same principle, with regard to Plaquemines.

Mr. Penn remarked, that the Tanchipahoe was the natural boundary between the parishes, and was so considered by their inhabitants. He trusts the districts will be separated.

Mr. Benjamin remarked, that the question before this Convention was simply whether St. Helena and Livingston should form one district with one senator. What! make a senatorial district with a population of less than six thousand, black and white, and pays into the treasury not over four thousand dollars? Why the idea is preposterous, for there is nothing to look forward to in the way of increase, either in wealth or population. There is not a section in any part of the State, that will not grow faster than these Florida parishes. The delegate from Iberville (Mr. Labauve) has justly observed, that in no part of the State is there an instance where any one of the districts has been allowed a senator on any such principles—there is no reason in it, no justice in it whatever.

The friends of the measure press it on the score of the number of voters; but that is an erroneous footing to place it. The number of voters may do to base representation on in the lower house, but as we have no property qualification any where, it cannot be allowed to go further. Some check is surely wanted. How are we to protect property, if we do not do it in the senate; we cannot therefore throw away that check without doing a crying injustice to those parishes who pay the bulk of all the taxes of the State.

Why the richest parishes will get the smallest appropriations, while the poor ones will divide out among themselves what the rich pay. The past history of the State has proved it, and it is destined to be her future history, if such a principle prevail; for then the taxing part of the community have nothing left to protect them from oppression and injustice.

Yesterday we refused two senators to West Baton Rouge and Iberville, who pay sixteen thousand dollars into the State treasury, but they certainly were entitled to four, if these two parishes are entitled to one, for they pay less than a fourth of that sum. He (Mr. Benjamin) joins with the delegate from Iberville (Mr. Labauve) in his expression of indignation at such gross injustice—judging from the past they are not likely to increase in numbers or in wealth; and we should look for something more stable in basing senatorial representation, than the vivid imagination of gentlemen from the Floridas.

Mr. Conrad remarked, that these four parishes would have four representatives, whilst West Baton Rouge and Iberville would only be entitled to three. This should have just been reversed. For at least they should not ask for special privileges in the upper house which has already been accorded to them in the lower house.

Mr. READ remarked, that they were entitled to four members before in the house of representatives.

The question was then put on Mr. LABAUVE motion, and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Benjamin, Bourg, Chinn, Claiborne, Conrad of Orleans, Culbertson, Derbés, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, McCallop, Mazureau, Pugh, Roman, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—29 yeas; and

Messrs. Brazeale, Brent, Brumfield, Chinn, Burton, Cade, Covillon, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt voted in the negative—nays 32; consequently the motion was lost.

Mr. PENN then moved that St. Helena and Livingston form one district, with one senator.

Mr. WADSWORTH remarked that he stood here in an isolated position; no body stands up for his parish; there are no combinations to help him; while the Florida parishes pull together to a man. Is not that a warning to us what we are to expect? Do not the people recollect who dragged from the treasury one million two hundred thousand dollars under pretence of building up the Nashville road, but in reality to benefit the piney woods parishes? Who but the members from that very county? They grabbed then for money, and now they are grabbing for power, so that they may get more. Why, I ask, should the land of cow peas be suffered to suck up the treasury of the State?

What have we got to resort to to pay the one million two hundred thousand dollars taken from the treasury for their benefit? They were not satisfied with that, but they wanted more; and so plausible were they about it, in connecting it with one of the banks, the amelioration of exchange bank charter, that they actually humbugged me; he was induced to vote on this measure to benefit the pine woods country. Thank God, Governor Roman saw the injustice of it, and placed his veto on it—that was a proud feather in his cap, and one for which I shall ever honor him.

And what does she ever furnish us with to entitle her to one-sixteenth of the representation in the senate? Why, a few bricks and pine boards!! Poor people, they say, are always greedy—they must be fed, and must have something to depend upon: they can't depend upon their land, for if they dig it forever, they can never get anything to grow; consequently they grasp at political power, that they may get their hands into the treasury. Are we to give up one-sixteenth of the political power of the State to those who do not own one-hundreth part of the property in the State? Why, the idea is preposterous and absurd. Let the river parishes look well to those things, for when they get the power they will ride over us rough shod.

Mr. W. B. SCOTT replied that if the money was raised for an unholy purpose the plan was not conceived in the Florida parishes, nor for *their* benefit.

Mr. WADSWORTH: That may be, but they grabbed the biggest share of the spoils when it was done.

Mr. CONRAD remarked that the plan *was* conceived by the Floridians; he recollects it well.

Mr. PENN is convinced that the delegate from New Orleans is in error—it was conceived in the city of New Orleans, and a meeting was held to consummate it in the hotel then kept by Mr. Bishop. But while it is admitted that that money was squandered, for whose benefit was it? The piney woods parishes? No sir, it was to make ditches through the morasses and swamps, and building bridges over the different bayous back of the city and bordering on the lake—a section of country which so much resembles the larger part of the parish of Plaquemines, and which he so glowingly pictures *as the rich alluvial soil of Plaquemines!!!* He (Mr. Penn) knows that the senator from the piney woods parishes was not in favor of the bill which governor Roman vetoed, and for which he (Mr. Penn) honors him as much as does the delegate from Plaquemines.

Mr. WADSWORTH: Who was the senator from the piney woods parishes?

Mr. PENN: T'was I. I was not here

when the bill was vetoed, as I was obliged to be absent in the West Indies, on account of my bad health. I opposed the bill, and I gloried in the veto when I heard of it.

The question was then put on the motion of Mr. Penn, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Waddill and Wederstrandt voted in the affirmative—33 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Eustis, Garcia, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, Sellers, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—28 nays; so the motion prevailed, and the parishes of St. Helena and Livingston form one senatorial district, and are entitled to one senator.

Mr. Penn then moved that the parishes of St. Tammany and Washington form one senatorial district, with one senator.

The question was then put, and the yeas and nays being called for resulted as follows:

Messrs. Brazeale, Brent, Burton, Brumfield, Cade, Cénas, Chambliss, Covillion, Derbes, Downs, Dunn, Garcia, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of St. Landry, Waddill and Wederstrandt voted in the affirmative—37 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Hudspeth, Garcia, Kenner, King, Labauve, Legendre, Mazureau, Pugh, Roman, Sellers, Taylor of Assumption, Winchester and Winder voted in the negative—23 nays; so that motion was carried.

Mr. Sellers then moved that the parishes of Concordia and Tensas, shall constitute one district, with one senator; which was adopted,

He then moved that the parishes of Madison and Carroll shall constitute one district, with one senator.

Mr. Sellers remarked, in asking for the latter he would simply state facts which would be better than any speech he could make, to show to the Convention the justice of the demand. The parishes of Madison and Carroll pay into the State treasury twelve thousand and eighty-six dollars, and has a population of ten thousand seven hundred and sixty-nine. He thinks these facts combined entitle her to one senator.

The motion was adopted.

Mr. Garrett then moved that the parishes of Union, Morehouse and Jackson form one district, with one senator.

Mr. Kenner was desirous of knowing if the Convention intended to pass the number of 32 senators, because if not, it was time to pause and reflect; before we knew where we were, we should have reached thirty-four at least. He then asked if Jackson had not been made out of the parish of Ouachita principally? And if so, whether it would not be better to put Jackson in a district with Ouachita?

Mr. Benjamin moved to add Ouachita to the district proposed by the delegate from Ouachita, (Mr. Garrett); the motion would then read:

"The parishes of Ouachita, Union, Morehouse and Jackson, shall constitute one district with one senator.

Mr. Downs is of opinion that when the question comes to be better understood by the Convention, that the opposition to it will, in a great measure, be withdrawn. The three parishes which it is proposed to form into one senatorial district, is a much larger district than any yet formed, in territory. He here referred to a map, from which it appeared that it contained two thousand five hundred and twenty square miles. The district composed of Jackson, Union and Morehouse, extends ten townships, sixty miles, due north and south, and eleven townships and sixty-six square miles due east and west, along the Arkansas line, and contains about one hundred and seventy townships, two thousand five hundred and twenty square miles; which would be eight hundred and forty square

miles each, nearly double the extent of the parishes fixed by this constitution; having four streams navigable for steam boats: the Ouachita river, running through it from north to south; the Bayou Darbone penetrating directly north west, forty miles to Farmersville, and beyond that in two directions, by different branches, to the State line and the line of the parish of Union, navigable by steamboats with a little improvement; the Bayou Bartholomew; the river of Morehouse, penetrating fifty miles or more, north-east, and bounded on the (parish of Morehouse) south and east by the Bayou Bœuf, Lafourche and Bœuf river; the last navigable for steamboats, and the two first capable of being made so.

The parish of Morehouse contains two of the most beautiful and fertile alluvial prairies in the State—Prairie Mer Rouge, said to derive its name from having formerly, when the favorite resort of the Indian or the French pioneer, been red with strawberries, and deer and cattle reposing on it red with them; and Jefferson, named after the founder of democracy and the purchaser of Louisiana. Here it was, that in Prairie Mer Rouge where Baron de Bastrop, (now the name of the parish scite,) Morehouse, after whom the parish was named, with Hunter, Nancarrow, and other talented citizens and foreigners made their favorite resorts. On the banks of the Bayou Bartholomew, are some of the finest cotton lands in the State, and it is one of the most beautiful streams, penetrating far beyond the limits of the State, and at one point within twelve miles of the Mississippi, whose turbid waters sometimes flow through it.

The parishes of Union and Jackson contain much of the finest pine-wood or upland in the State; so much so, that considerable quantities of it was entered by speculators in 1835–6, and is now settling rapidly.

They do not, it is true, show as large a tax return as their size and real importance call for; but that has been heretofore measurably the fault, in part, of the want of a correct assessment; and in part, by the fact that the largest bodies of it were purchased from the United States government, which are not taxable for five years after the purchase; therefore, the tax list is no criterion for us to be governed by. Heretofore these three parishes have voted together, and in the course we have been pursuing, of giving double representation to the old senatorial districts, whose population had increased to that degree as to justify the call, it is certainly nothing more than fair and just to allow these parishes one senator, for on any basis you please, if it could be correctly come at, they are equitably entitled to it. He (Mr. Downs) feels convinced that before long the voters of Jackson will be more numerous than those of Ouachita or Union. The largest part of it was taken from Ouachita, in territory, but the greatest population still remains in Ouachita; yet such is the character and face of the country, that Jackson is destined, at no distant day, to be more densely populated than either of them, and without taking the population of either. On the subject of voters in the lower house, there can be nothing to complain of, for Union, by the basis we have chosen, was entitled to two representatives, one of which was given to Jackson; and therefore there is no increase on account of the making of the new parish.

He (Mr. Downs) hopes when all these facts are duly reflected upon, and when it is considered that the district contains two thousand five hundred and twenty square miles of land, is not only now thickly settled, but has a bright prospect for the future, she ought to be fairly represented in the senate of the State; and that for these reasons the Convention will adopt the motion as proposed.

Mr. Humble protests against joining Caldwell with Franklin. He said there was a natural division between the parishes; an immense swamp, and to join them would not be satisfactory to either of the parishes.

Mr. Kenner being anxious to examine a map of that portion of the State, which a friend had just handed him, moved an adjournment until to-morrow morning.

Mr. Downs objected, and remarked that after he had examined the map, it was not likely he would be better informed on the geography of the country than the whole delegation of the Ouachita district.

The question was then put on the motion to adjourn, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Briant,

Brumfield, Cenas, Claiborne, C. M. Conrad, F. B. Conrad, Derbes, Dunn, Eustis, Garcia, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McCallop, Mazureau, Pugh, Roman, Sellers, Stephens, Miles Taylor, R. Taylor, Voorhies, Winchester and Winder—30 yeas; and

Messrs. Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, McRae, O'Bryan, Peets, Penn, Porter, W. B. Prescott, W. M. Prescott, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Waddill and Wederstrandt—29 nays.

The PRESIDENT, Mr. Walker, voted in the negative, so the motion was lost.

Mr. KENNER thought it was very unusual and uncourteous for the delegate from Ouachita, to have tauntingly remarked as he had, (when he had said he wished to study the geography of the country to satisfy himself as to the extent of the territory embraced in the Ouachita country) that even after he had done so, he would know nothing of it, or words to that effect.

Mr. CONRAD then moved an adjournment, and the question, on a call of the yeas and nays, resulted as follows:

Messrs. Aubert, Bourg, Briant, Brumfield, Cenas, Claiborne, C. M. Conrad, F. B. Conrad, Derbes, Garcia, Hudspeth, Kenner, King, Labauve, Lewis, McCallop, Pugh, Roman, Stephens, Miles Taylor, Voorhies, Winchester and Winder—23 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, McRae, O'Bryan, Peets, Penn, Porter, W. B. Prescott, W. M. Prescott, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Waddill and Wederstrandt—28 nays; so the motion was lost.

An animated discussion then took place between Mr. Downs on the one side, who insisted on proceeding with the section under debate, and Messrs. Taylor and Conrad on the other, who opposed it on the ground of its being unusual to press a motion when a delay was asked for, on account of the house being so thin, and the question so important; pending which, on motion of Mr. BRENT, the Convention adjourned till to-morrow at 10 o'clock.

SATURDAY, March 29, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

Mr. RATLIFF on behalf of the committee on contingent expenses, reported unfavorably upon the application of the printers to the Convention, for the publication of the English reports of the debates and journals of the Convention, asking some additional compensation to bring up the reports. Mr. R. accompanied this report with some verbal explanations. He said, that the present printers were well aware of the nature of their contract before they undertook it. That the whole subject of printing for the Convention had been thoroughly examined and discussed when the former printer was removed. They were to furnish ten copies of their paper containing the debates and proceedings, and to publish these debates and proceedings in their paper three times a week, and oftener, if necessary, to keep up with them. For the subscription to their paper, or in other words, for furnishing ten copies containing the debates and proceedings, they were to receive five hundred dollars, and were to receive two dollars per page for publishing the debates and proceedings in pamphlet form. The latter duty required a mere transfer of the types from their newspaper. There was no obligation in the contract for the printers to do any other work; and when other services were required from them, it was the practice of the committee to audit their accounts for extra work. The committee should continue to authorize the payment of all such claims unless otherwise directed by the Convention. The report recommended that nothing further should be allowed the printers for the publication of the journals and debates, for the reasons assigned, and he hoped that it would be adopted.

Mr. Ratliff concluded by moving the adoption of the report.

Mr. DOWNS hoped that the report would not be adopted, and that it would lay over for further consideration. It may be that according to the strict and literal construction of the contract with the printers, that they were not entitled to any additional compensation. But that should not be the sole question with the Convention. If it can be shown that this work has extended

beyond the calculations of the printers, and that they are actually incurring a loss, is it equitable or fair that the Convention should hold them literally to the bond without guaranteeing them at least from a positive loss—there are some considerations connected with this matter, which should induce us to lend a willing air to their application. It should be borne in mind, that when they took the printing for the Convention, the debates and journals were fifteen days behind hand. It required time and expense to bring up these proceedings. In fact it was exacting from them that which was not strictly speaking, in their contract; for their duties began only from the day of their election; whereas, they had to bring up work that was behind hand. We ourselves had not anticipated so long a session. It was not supposed that the Convention would be in session more than sixty days, and here we were still, and to the best conjecture he could form, here we would remain for thirty days and perhaps sixty days. The extension of the session and the accumulation of labor—the very volumnious character of the debates and proceedings, imposed a very heavy and onerous duty upon the printers. If it can be established to our satisfaction that they have double the duty to perform, is it unreasonable to give them a fair compensation. All the officers of the Convention were paid liberally in proportion to their services—we ourselves were paid liberally. Is it just to expect and to require that the printers should be an exception to the general rule? By associations among the compositors they exact a fixed remuneration for the amount of the labor performed by them conformably to a tariff, and unless they are paid thereto, their services are not to be had. The proprietors of newspapers are compelled to submit to these conditions, and there is no way by which they can economise their expenses, so far as the preparation of the matter is involved. We are assured by the printers that the compensation allowed them is insufficient to meet their expenses for the publication of the proceedings. Suppose they are under the necessity by a want of means to continue the work: we cannot exact from them impossibilities. We have perhaps no means of compelling them to go on; they may find that they are sacrificing too much, and although they may feel under a moral obligation to prosecute the work, they may be without the means of doing so. Not the least important function connected with this Convention, are the publication of its proceedings. Let us guarantee the printers at least against a loss. Let the committee inquire what is really their expenses for doing the work and pay them accordingly, and not one cent more than they are justly and fairly entitled to. But, I beseech you, said Mr. Downs, not because you have got it in the bond, to exact the last pound of flesh. Even if it be in the bond, and it can be satisfactorily shown that there is a loss, do not take advantage of that, but extend that relief which the circumstances may require. I hope then, that the report will be recommitted with instructions to inquire and report upon the value of the services and upon what the printers are fairly and honestly entitled to.

Mr. Ratliff said, that the exuberant imagination of the gentleman from Ouachita, had given a coloring to this matter, which was not in exact accordance with the precise state of facts. That gentleman has discovered what does not exist in the application of the printers themselves. They say not one word about arrear publications. They were well aware of these arrear publications when they undertook the contract. The only question which presented itself to the committee was, whether they should receive an additional sum to the five hundred dollars already paid them for furnishing their paper containing the debates.

Mr. R. read from the letter of the printers.

The only matter then involved, was whether they should receive extra compensation for furnishing their paper. The committee had examined the subject and were of the opinion that they were not, and had so reported to the house. The same terms were made with the proprietor of another newspaper, the Courier, for the publication of the same debates and proceedings in French. That proprietor had never appeared nor complained of the insufficiency of the remuneration. He too, had taken the contract with a full knowledge of the extent of the labor, and of the remuneration—he was a practical printer,

and had acquired a large fortune in the printing business. This was a proof of his judgment and discretion in conducting the business. Is it to be supposed that his lips would have remained hermetrically sealed to the present moment—that he would have never even intimated in the remotest manner, that he was entitled to one dollar extra compensation, if he had any grounds of complaint? He was assuredly duly sensible of his own interests, and had they been compromited by this contract, it is not to be presumed that the argus eyes of self-interest would not have discovered before this, that it was a losing business.

I consider (said Mr. Ratliff) that a contract with a legislative body ought to be held as sacremental as a contract between private individuals. It has been unfortunately too much the habit to interfere with these contracts whenever printers were concerned. In 1830, the democratic party set the example of giving the State printer an extra compensation; they raised his salary from four thousand dollars to seven thousand dollars. I voted against this proposition upon principle. A few years afterwards the whigs followed the same example, and gave to the printer they had elected, also an additional compensation. But in both instances, the journals speak for me. I have in every instance voted against granting additional compensation to printers, because they are practical men, and must know the extent of the labor required from them. In the present instance, the whole matter was perfectly understood. It had been fully discussed in the removal of the former printer; and before in fact he was removed, the printed tickets of the candidates for the succession, were laying upon our tables. In the house of representatives, the city papers are furnished for the session at from one hundred dollars to one hundred and twenty dollars. As chairman of the committee on contingent expenses for a number of years in that body, I am conversant with the amount usually demanded by their proprietors. The Picayune is furnished for one hundred dollars, and all the papers contain a synopsis of the proceedings. I do not think it just or proper to increase the compensation of the printers, or any other officers that may be employed by a legislative body. I was against it ten years ago, and I am against it now. No party considerations nor personal predelictions will induce me to change a contract for the public printing to the prejudice of the State. On one occasion I recollect that I succeeded in reducing the salaries of the officers of both branches of the legislature, but this retrenchment was of little or no avail, for at the end of the session, when the members begin to feel rich, they put back the compensation where it was before, with perhaps few exceptions. I do not think a contract with the State a rope of sand. In their present application, the printers were unfortunate in trying the committee. It would have been better policy for them to have waited until the last day of the session, when it is very likely their demands would at once have been assented to. In a conversation with one of them, I told him that he had nothing to expect from the committee, and observed to him jocosely, that it would have been better had he postponed the demand for the last day of the session. Perhaps this is the intention of the proprietor of the Courier, who has more experience in such matters. I would observe that four of the committee concurred in the report, and that we were unable to consult with the two remaining members, Mr. Roselius and Judge King.

Mr. Splane said that we were spending more money in this discussion than would cover the additional expense for bringing up the report. He hoped the subject would be recommitted to the committee with instructions to report upon the facts.

Mr. Beatty was willing, if the printers found the contract an onerous one, to discharge them from their contract, for he must confess that he was not satisfied with the manner in which the work was done. He would not vote to give one cent.

Mr. Downs: does the gentleman mean that the printing is badly executed?

Mr. Beatty: I complain of the matter printed.

Mr. Downs said that the gentleman from Feliciana (Mr. Ratliff) had omitted to mention a very essential point, in referring to the number of newspapers furnished to the legislature during its session. There were but sixty copies of each paper fur-

nished to the house of representatives; whereas, the printers to the Convention furnished of each number containing the debates, seven hundred and seventy copies. The subscription to the smallest city paper, and they all have the same price of subscription for three months, and to furnish seventy-seven copies, would amount to two thousand three hundred and ten dollars. Do not give the printer one cent more than he is fairly entitled to. The gentleman says that the printer of the debates in French does not complain; the gentleman it would seem is mistaken. The proprietor of the Courier will no doubt make a similar application, and I have no objection that this paper should be included in the investigations to be assigned to the committee under the motion.

Mr. HUMBLE said the gentleman (Mr. Ratliff) was mistaken in stating that the printers of the reports of the debates in English had never asked for additional compensation. From the showing made, it appeared they were entitled to something. The delegate from Baton Rouge, (Mr. Read,) the delegate from New Orleans, (Mr. Benjamin) and the delegate from Lafourche, (Mr. Beatty) on another occasion sustained their claim. It was better to recommit the subject, and if the facts of the case justified it, it was but right to allow them some additional compensation to bring up the reports.

Mr. PUGH said he felt under the necessity of voting against this resolution. The legislature had been very profuse in their expenditures. This body should inculcate economy by setting the example of restricting the public expenses within proper bounds.

Mr. CULBERTSON would sustain the suggestion first made by the delegate from Ouachita. It was proper that the subject should be inquired into, and if the contract was really prejudicial to the printers, some relief ought to be extended to them. If for example, he was to contract for the building of a house, and he found that the person contracting was really losing money, he would not hold him to the contract, without a sufficient remuneration for any loss. What he would do for himself individually, he felt authorized to do on behalf of those whose interests he represented.

The question was taken upon Mr. DOWNS' motion to recommit, and it was carried in the affirmative.

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, Lewis, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt, Wikoff and Winder—36 yeas; and

Messrs. Aubert, Beatty, Bourg, Chinn, Conrad of Orleans, Conrad of Jefferson, Derbes, Hudspeth, King, Legendre, Mazureau, Prudhomme, Pugh, Ratliff, Roman, Saunders, Sellers, and Winchester—18 nays.

Mr. SPLANE gave notice, that he would on Wednesday next move for the reconsideration of the vote, constituting St. Mary and St. Martin one senatorial district.

Mr. CHINN gave notice, that on Wednesday next he would move for the reconsideration of the vote giving but one senator to the county of Iberville.

Mr. PUGH gave notice that he would introduce a proposition requiring that each parish and senatorial district should pay its own senators and representatives.

ORDER OF THE DAY.

The Convention resumed the consideration of the section providing for the apportionment of the senate.

When the Convention adjourned yesterday, Mr. Garrett had moved to constitute a senatorial district to be formed of the parishes of Union, Jackson and Morehouse.

Mr. BENJAMIN had moved to add the parish of Ouachita.

Mr. HUMBLE reminded the delegate from New Orleans (Mr. Conrad) of his promise to address the Convention in support of the motion to add the parish of Ouachita to the parishes of Union, Morehouse and Jackson.

Mr. G. M. CONRAD said that it was not his intention to have addressed the Convention to-day, because he observed that there were more seats vacant than usual. There would be manifest injustice in taking the vote to-day, and should that course be taken, he would give notice that he would move the reconsideration of the vote, for

from the complexion of the house at present, he inferred that as many senatorial districts would be created in the west as its representatives would desire, he would barely remark as the gentleman (Mr. Humble) desired that he should express his views upon the proposition before the house, that he conceived it just and proper. With the addition of Ouachita, the district would not be as large as many that had been constituted, either in regard to taxation or population. From the best means we have before us of judging of this matter, we find that the population of Union is one thousand eight hundred and thirty-eight; Ouachita, four thousand six hundred and forty. These are the only two parishes in the district whose population are indicated in the statement before us. In relation to Morehouse, we have one little datum.—Morehouse gave, in 1844, at the presidential election, when the vote was unusually large, one hundred and thirty-eight votes. At the same election, Ouachiita gave ——, about twice the number; hence it would seem that there is no great injustice in uniting Morehouse with Ouachita in forming the district. The total population of Morehouse, it may safely be inferred, is not one-half that of Ouachita. The population of both may be set down as two thousand seven hundred and fifty-seven. Having obtained a pretty accurate idea of the population, let us see what is the amount of taxation. By the report of the State Treasurer, we find that Ouachita, including Morehouse, pays four thousand six hundred and fifty dollars and forty-eight cents. This includes the taxation upon the property of residents and non-residents—of minors and of white persons, and free persons of color. It gives us some notion of the wealth of Union and Morehouse. With regard to the parish of Jackson, we know nothing further than that it is a new parish, created during the last session of the legislature; and from what has been mentioned incidentally in debate upon the apportionment of the parish of Claiborne in the house of representatives, we may presume that it is sparcely populated, and in reference to its contributions to the treasury, they must be insignificant indeed. A portion of the parish of Union was also taken to form the parish of Jackson, and the voters residing in that portion should be deducted from the vote of Union.

One of the principal causes that led to the convocation of the Convention was the inequality of representation in the Senate. This was one of the evils which we were mainly called upon to remedy. Some equality ought to be maintained in forming the districts, or we might as well leave the apportionment as it is in the old constitution.

I have heard, said Mr. Conrad, of apportioning the representation of a State for mere party purposes—for mere temporary objects, but I never heard of a deliberate attempt being made by any constituent body to perpetuate a system of injustice. The majority in the Convention have refused to increase to an additional member the senatorial representation of the old county of Iberville. In 1812, at the formation of the constitution, one senator was allowed to the parishes of Iberville and West Baton Rouge, composing that district, and only one is now allowed in 1845. While the disposition is clearly manifested to restrict the senatorial representation of the parishes in the south and south-east, and to deny them that representation to which they are entitled by their population and taxation, the very contrary spirit is exhibited towards the north and north-western parishes of the State. These latter, without either the necessary population and with but a small proportion of the taxation, it seems are to be multiplied into innumerable districts. In increasing the number of senators to thirty-two, we have added fifteen to the seventeen already apportioned in the old constitution. What disposition are we making of these fifteen? We have given to the parish of Avoyelles one senator, to the parish of Rapides one senator. Here we have two senators in a district where there was heretofore but one senator, and the parish of Catahoula, which belonged to the district, is reserved to form a third senatorial district. We have appropriated but eight senators to the south and south-eastern parishes, including the city of New Orleans, and the remaining seven are to be monopolized by the north-western parishes. Upon no principle of equality can such an apportionment be justified; upon reviewing our work it

will be seen that the north-west has not only obtained the preponderance of the increase of representation in the house, but that her representatives are asking for her a similar preponderance in the senate. For her benefit an arbitrary rule was adopted, that each parish should have one representative without reference to population, as her territory had previously been multiplied into a number of small parishes, this rule operated especially in her favor.

He was not disposed to take one iota of representation from the parishes of the north-west. He wished every jot to be extended to them to which they were justly entitled. But we must have a rule to which we should adhere invariably. He regretted to have felt himself under the necessity of voting against the increase of senatorial representation to the piney wood parishes. He could not find that they were entitled to it. He was, however, better pleased that this additional representation was extended to those parishes, because injustice had been done to the parishes of the south and south-west, although, even on that ground, he could not feel himself authorized to sacrifice what he considered a principle. Fromtheearnestnesswhich he could see manifested to press a vote upon the question before the house, he was convinced he was loosing his own time and that of the Convention in discussing this subject, and he would not have trespassed upon the attention of the house had he not been called upon by the delegate (Mr. Humble) to redeem the pledge that he had made yesterday. Any vote that may now be taken he would not consider definitive of the question, as he had said at the beginning of his remarks, he would move for the reconsideration, and would take that occasion to express himself more fully.

Mr. Downs said that he did not design addressing the Convention, but the arguments of the delegate from New Orleans rendered it necessary for him to do so. I am at a loss to understand, said Mr. Downs, what the gentleman means by announcing that he will address the Convention hereafter, more fully upon the subject. It strikes me that he has thoroughly explored the whole matter. I may say that his argument was so full that it run over, and if his object was to prove that there was any thing unjust in giving a senator to a district to be composed of three parishes, I think he has shot wide of the mark. The gentleman assumes that much too large a share is about to be given to the parishes above Red river, on the Ouachita, and on Red river. If you will cast your eye upon the map you will see that much the largest portion of the State lies in that section. The parishes of Jackson, Union and Morehouse contain an area of two hundred and fifty square miles by the regular surveyors' charte—an extent that would embrace New Orleans, the parishes on the coast, the parishes on the Lafourche, and a great deal more. Whoever will examine dispassionately the apportionment will find that the large extent of country embraced in the north-western portion of the State is, in point of fact, the largest portion of the State. To that section but six senators are allowed, while the nine other senators are for the most part, distributed from the Balize to Point Coupée. These nine senators have been monopolized in this particular section of the State, with the exception of the Attackapas and Opelousas parishes, because perhaps sugar is principally cultivated in those parishes. Whenever the effort is made to give an equivalent representation to the north-western parishes the hue and cry is raised, and they are placed under the ban! It is really astonishing that so strenuous an opposition should be made to giving a fair representation to a territory that embraces the largest portion of the State. Look upon the map and you will readily see the vast difference in point of territory, between that section and the lower portion of the State.

But the delegate (Mr. Conrad) says that the parish of Morehouse is an insignificant parish, because it gave in the last presidential election, but one hundred and thirty-eight votes. How many votes did the parish of St. Charles, which together with the parish of St. John constitutes a senatorial district, give at the same election? It gave one hundred and thirty-eight votes—precisely the same number. And if it be taken into consideration that Morehouse is a frontier parish, and not so much exposed to political excitement as the parish of St. Charles, which is so near the city of New Orleans, it would be seen that the former has nothing to lose from the comparison. Moreover, the parish of Union

gave four hundred and nineteen votes at that election—the parish of St. John the Baptist gave two hundred and fifty-five votes, which, added with the vote of the parish of St. Charles, makes a total of three hundred and ninety-three votes. Thus it will be seen that the parish of Union gave alone, more votes than the parishes of St. John the Baptist and St. Charles put together; and yet these two parishes have been allowed a senator without the slightest difficulty. Whereas when it is proposed to form a senatorial district composed of the parish of Union which gave more votes than the other two put together, in connection with the parishes of Morehouse and Jackson, it is pretended that these three parishes are insufficient to form a district, and that a fourth parish must be added—the parish of Ouachita, which gave three hundred and twelve votes at the last presidential election, to complete the district. Is there any justice in such a pretension? Its injustice is palpable. We have not yet created a single district having but one senator with a plurality of parishes, that is to say in any case more than two. Here we have three parishes placed in the same senatorial district with but a single senator, and still the gentleman from New Orleans (Mr. Conrad) tells us that three parishes are not enough to form this district—that they are in the north-west, and therefore, according to his notions, there must be four. If this be the gentleman's conception of justice, all that I have to say is, that it is peculiar, and I trust it is not shared by the majority of this body.

What are the motives that actuate some members of this body to suppress the voice of a particular portion of the State? Is it through political motives? It has been alleged that a systematic plan has been adopted, of which I am accused of being the author and promoter, to multiply new parishes in the north-west, with the view of organizing the political power of that section. There is no foundation for any such charge. The first parish that was formed, the parish of Caldwell, was created at the instance of Judge Morgan, a most decided whig. As for the formation of the parish of Union, it was created in 1838, at the solicitation of a number of citizens residing within its territory, which was cut off from itercourse, to a great extent, by the bayou Darbone, from the rest of the territory. They wished to set up for themselves. Its formation was promoted by persons more zealous than I; by zealous whigs; and so close is the contest in that parish, so rapidly is the whig cause gaining ground, that I can inform the gentleman, and his political associates, and I have no doubt that the information will give them great satisfaction, that at the last election the democratic party only carried the election by thirteen votes majority.

The gentlemen who so strenuously oppose the formation of this district may be deceiving themselves; they may be cutting off their own noses. As to Morehouse, the democratic party can make no show of a contest in that parish; they are completely in the minority, and if there were anything to turn the whigs, in that and the adjoining parish, it would be this attempt to suppress the voice of that portion of the State, attempted by those in this house professing similar political opinions.

Thus we see that Union is divided, Morehouse is whig by two or three to one; as for the remaining parish of Jackson, it was created during the last session of the legislature. The question of its creation was made before the people; the whig candidates pledged themselves to effect it; they used it as a means to promote their success, and the consequence was that the democratic party lost the election of two additional members to the house, because they did not take up this question, and two whigs were accordingly returned. The move was got up by that party, and it was that party that profited by it. I have nothing to say against it; but it did not originate with me. Its political complexion is not yet tested, but it is filling up fast with population. The district so composed may be whig, and elect a whig senator; it is by no means certain for the democrats. And thus, if the formation of those parishes into a district is opposed solely in reference to political questions, the gentlemen may be deceiving themselves as to the probable result.

But it has been insinuated that the population in the north-west are opposed to the creole population; that they are in favor of innovations, and against the civil law. It is not a fact; the democratic party have de-

clared that they are not in favor of any material change in the civil law. It is true that the new comers have their prejudices against that system, but when they have resided long enough in the country to become acquainted with it, they are satisfied with its operation; they are adverse to its being superseded. The people of the north-west are American citizens, and as much entitled to a full participation in political power as the people of any other portion of the State. It is true that they may not be in the main as wealthy; there may be some amongst them who are poor, and subject to the same reproach as the people residing in the piney woods across the lake, who have been taunted with their poverty. It is bad policy to use such an argument, and the wisdom of that statesman who employs it, must be excessively small. The gentleman should recollect that there is another kind of wealth required for the protection of the country—it is courage, strong hands and bold hearts; and I doubt much, if danger should arise, whether the rich parishes, that have been so much eulogised by the delegate from New Orleans (Mr. Conrad), and the delegate from Plaquemines (Mr. Wadsworth), in contradistinction with what these gentlemen are pleased to term poor parishes, would render as efficient succour to the country as the latter. They may be poor if you will, but they are rich in patriotism, and for every one citizen that would volunteer, you would find four or five offering their services in the poor parishes of St. Tammany, of Livingston, and Washington, and if you will, of Union and Ouachita. If you repudiate them now because they are poor, they may turn their backs upon you in the moment of peril; in the emergency they may respond to your call for help, that if money is so powerful, why do you not defend yourselves? why ask help from those you have despised because they are poor?

In 1815 who repaired with the greatest alcarity to the field of battle to repulse the common enemy? Did the poor and humble inhabitants of the lake parishes hang back on that occasion? Were the people of the north-west insensible to the call of duty? Volunteers were raised in those parishes and in the parish of Ouachita. Did the unworthy motive, that they were not themselves in danger, influence their action, and paralize their noble impulses? Should danger arise again, although you may have repulsed them, they would be too generous, too noble to refuse you their assistance. They will leave their fire-sides, in the remote west, from the pine barrens across the lake, and will fly to your relief. It is bad policy to attempt to despoil them of their political privileges. These pine barrens, which they are reproached with inhabiting, are the natural ramparts to protect the State. I have considered it as one of the most fortunate physical peculiarities of the country, that there are these strips of pine barren running throught it, and in close contiguity with the rich alluvial lands. In these latter the slave population, from the productiveness of the soil, will always predominate; while in the poorer lands the white population must greatly predominate.

Let us then give equal protection to all alike, and let us remember that there is a mutual dependence.

Mr. C. M. Conrad: The gentleman from Ouachita has taken such a discursive range that, although I did not intend to trouble the house again, I deem it not unnecessary to notice some of his observations. He commenced with a high eulogium on his patriotism and disinterestedness, and if it were not for his remarks I would have taken it for granted that he was uninfluenced by any selfish or political considerations. I have heard no one impeach that gentleman's motives, and yet he has seen proper to enter into a long and elaborate defence of them. I did not suppose that the gentleman was under the influence of political motives, although I presumed, as was quite natural, that he was anxious to obtain as large a representation as he could for the section of the country which he represented on this floor. But the gentleman has fancied that he was liable to suspicion for the purity of his motives. This reminds me of an anecdote told by a distinguished gentleman in a political canvass, of two women not remarkable for their chastity, between whom a struggle arose which should call out harlot first. The gentleman, it seems, wishes to take the start; he calls hard names first. The gentleman has assumed for an argument that a feeling exists in this house to do injustice to the poorer parishes. Who has made any charge of that kind? No one

but the gentleman from Ouachita. The gentleman from Plaquemines, alluding to the poverty of the land as indicating the sparseness of the population, humorously said that one could hear a weed trying to grow. The gentleman from Ouachita must be susceptible indeed if he can construe this into a reproach. Why, the gentleman from Livingston, (Mr. McRae,) one of the representatives of this particular region, laughed at this fancy as a joke; but it seems that the gentleman from Ouachita has constituted himself the champion of poverty, and imagined that a class of our population are assailed for no other purpose than to show his skill and magnanimity in defending them. Let us throw aside declamation—let us throw aside prejudice. No one pretends that there is less intelligence, less patriotism, in the poor parishes than there is in the rich. Let us look at the subject in its true and only point of view. The basis of electors is not favorable to equality and uniformity of representation throughout the State. In the rich parishes, where the lands are fertile, the slave population must predominate, and the burden of taxation will principally fall upon these parishes. In the poor parishes there will be an excess of white population and but little taxation. The result will be, that the parishes contributing the smallest amount of taxes, will have the greatest share of political power; and that those parishes contributing the most taxation will have little or no voice in determining even the burdens they are to bear! That is the reason why I object to such a system; and not because I wish to establish any distinction between the poor and the rich, for I am well aware that riches and wealth are not necessary corelatives. I am convinced that taxation should form an ingredient in representation, as well as electors or population. The house have decided differently, and I have yielded the point. The house of representatives has been based on popular suffrage. Is not that already a sufficient concession? Must the senate be constituted in a similar manner? The gentleman from Ouachita has tacitly agreed that in the formation of the senate, some regard ought to be paid to wealth and taxation. It was on that principle that we gave a senator to St. Charles and St. John the Baptist; to Pointe Coupée; and increased the senatorial representation in the Lafourche parishes, in Attakapas and Opelousas; not in reference to population alone, but likewise in reference to the large amounts contributed by these parishes. Surely nothing could be more conformable to the principle of population and taxation, and I am at a loss to conceive how we could have incurred the reproach of having shown no consideration for the poorer parishes of the State; with having despised and insulted them. The gentleman from Ouachita has assumed this position, and has undertaken to panegyrize the inhabitants residing in the lake parishes. No one respects them more than I do. No one is more anxious that they should have a proper representation; and I have had more connection with them than the gentleman from Ouachita. Their peculiar interests are assimilated with those of this portion of the State, of which they form a part, and certainly there is more identity of feeling between them and us, than between them and the people of the remote north-west. Declamation cannot overthrow facts. As for the comparison instituted by the gentleman from Ouachita between the parishes of St. Charles and St. John the Baptist, and the parishes of Union, Morehouse and Jackson, for the purpose of showing that the three latter are better entitled to a senator than the two former, it will not stand the test of scrutiny.

The parishes of St. Charles and St. John the Baptist pay double the taxes of Union, Morehouse and Jackson, all three united. It may be as the gentleman says, that the parishes in lower Louisiana do not cover as large an extent of territory as the parishes in the north-west. It may be that they are not as perceptible on the map; but if it requires, as the gentleman suggests, a microscope to discover them there, in comparison with the more extended parishes in his district, there is no necessity for any microscope to see the large piles of money that they pour into the treasury, and in the distribution of which they ought certainly to have some control.

Mr. Chinn said that the house was so thin it would be better to postpone acting upon the question at present.

Mr. Downs: I am not surprised at the disposition exhibited to procrastinate action upon this question. It appears to be

a very sore spot. I hope that it will be decided at once.

The question was taken upon Mr. Benjamin's motion to add the parish of Ouachita to the parishes of Union, Morehouse and Jackson, in the formation of the senatorial district, and the yeas and nays were called for:

Messrs. Aubert, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Garcia, Hudspeth, King, Legendre, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers, Taylor of St. Landry, Wadsworth and Winder—18 yeas.

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Derbes, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff—41 nays.

Mr. Lewis said, that if the formation of the districts could be so arranged as to give the old Ouachita district two senators by striking off the parish of Catahoula from the Rapides district, and adding it to the Ouachita parishes for that purpose, and by that means apportion five senators between them and Rapides, and the Natchitoches senatorial district, he thought that would be a fair allotment. That would be giving to that section of the State about an equal voice with the Opelousas and Attakapas districts, to wit, five senators; and he did not think that any more ought to be conceded.

Mr. Humble said that he was as well acquainted with that section of the country as the gentleman from New Orleans (Mr. Marigny) was with lower Louisiana. There was peculiar fitness in uniting Franklin and Catahoula to form a senatorial district, but as for placing Caldwell in that district, he would as soon think of attaching it to the parish of Plaquemines; it would answer just about as well.

Mr. Garrett contended in favor of forming the parishes of Union, Morehouse and Jackson into a separate senatorial district. From all the data combined, he thought it was no more than just that they should form a distinct senatorial district. The parishes of Caldwell and Ouachita should also form a senatorial district, and Catahoula and Franklin another. This would give but three senators to a very large extent of country, possessing great fertility of soil, and which was fast increasing in population.

In apportioning the representation in the senate, he was guided not alone by reference to taxation, but by reference to extent of territory as well as population. In voting to give the county of Acadia two senators, he was influenced by the amount of taxation contributed by the two parishes of St. James and Ascension. They were entitled to two senators on no other ground. By a parity of reasoning, some consideration ought to be given to extent of territory and locality. The small parishes of St. John and St. Charles were formed into a senatorial district, and certainly they possessed but one of the elements of representation. They contributed a large amount of taxes, but were deficient, comparatively, in reference both to extent of territory and to electors. The dissimilarity between the parishes throughout the State, in the several requisites for representation, should not be overlooked. In some there was a preponderance of votes, of territory; and in others a preponderance of wealth. If taxation were admitted as the sole ingredient of representation, we would give to those parishes that were wealthy the sole privilege of being heard, and would disfranchize, or suppress to a great extent, the voices of other sections of the State, where there was the greatest extent of population and of territory. To do justice it was necessary to take them all into consideration, and so to apportion the representation that all might be heard.

Mr. Garrett said that local causes had contributed to arrest the progress of the section of the State which he had the honor, in part, of representing. The Maison Rouge grant covered a large extent of territory, and that and other conflicting claim had prevented the settlement of the country to some considerable extent. These causes, however, would not much longer operate. A decision was about finally to be had upon the Maison Rouge claim, and whatever might be the issue of that decision it was immaterial, so that the title were settled and the lands brought into market. As

soon as that were done, they would be covered with inhabitants, and the increase in population and in wealth would be most remarkable. The object is to adopt a system of apportionment that will be permanent, and if there is any apparent deficiency at present, in any particular, in that portion of the State, it will not be of long continuance. The fertility of the soil, and the great natural advantages it posseses, offer a positive guarantee that its great resources will not remain long undeveloped to their fullest extent.

It has been assumed in this debate that more is asked for the north-western parishes than has been conceded to the other sections of the State. This is not sustained by a reference to the apportionment that has thus far been made. The four senatorial districts in the south and south-west have been doubled in their representation, and in addition a senator has been added to Opelousas, to Acadia, to Attakapas, and to Lafourche.

No disposition existed on his part to do injustice to any section of the State, or to any peculiar interest; and while he was ready to concede cheerfully what was due to other parishes, all that he asked for was that impartial justice should be meted out to the parishes in his section of the State.

Mr. Sellers, much to his regret, found himself under the necessity of voting against forming these three parishes into a distinct senatorial district. Upon no principle could he find himself authorised to vote for a district which was so totally deficient in every necessary requisite, whether as relates to population or taxation. The taxation of Morehouse was only seven hundred and seven dollars; of Union only one thousand five hundred and eighty-one dollars; and the total population of Union was only one thousand eight hundred and thirty-eight; of Morehouse we had no data as to population; and Jackson was a new parish, but just created, a portion of the territory of which had been taken from Union. If any other territory were added to that district, which would justify its pretentions to a senator, he would have no objection; but as it was, under a concientious sense of duty, he could not vote for the proposition.

The question was taken upon forming the parishes of Morehouse, Union and Jackson into a senatorial district, with one senator, and the yeas and nays were called for:

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff—38 yeas.

Messrs. Beatty, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Derbes, Garcia, Hudspeth, King, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers and Taylor of St. Landry—18 nays.

Mr. Garrett moved that the parishes of Caldwell and Ouachita should form one senatorial district, with one senator; and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—39 yeas; and

Messrs. Aubert, Chinn, Claiborne, Conrad of Jefferson, Derbes, Dunn, Garcia, Hudspeth, King, Lewis, Mazureau, Roman, Roselius, Saunders, Sellers and Taylor of St. Landry voted in the negative—16 nays.

Mr. Mayo then moved that Catahoula and Franklin form one senatorial district, with one senator. Carried.

Mr. Brent then moved that the parish of Rapides be constituted one senatorial district, with one senator. Carried.

Mr. Peets moved that the parishes of Bossier and Claiborne form one senatorial district, with one senator. Carried.

Mr. Brazeale moved that the parishes of Natchitoches and Sabine form one senatorial district, with two senators. Carried.

Mr. Porter moved that the parishes of Caddo and De Soto be formed into one senatorial district, with one senator.

But before the question was put, Mr. Marigny moved that four senators be allowed to the city of New Orleans, and that they be elected by general ticket.

Mr. CULBERTSON moved to amend the motion by apportioning the four senators to the city of New Orleans as follows: two to the first municipality; one to the second municipality, and one to the third municipality.

Mr. SOULE sustained the motion of Mr. Culbertson.

Mr. LEWIS moved the adjournment. He did so because this was an important question as related to the city, and he observed that her delegation were not at the moment in general attendance. The qnestion was taken, and the yeas and nays were called for—19 yeas and 35 nays.

Mr. EUSTIS was not aware that this question would have been presented to-day, and it was probable there was more difference of opinion among the delegation from the city, than there would have been had it not arisen suddenly, and had they had an opportunity for some previous conferenee. Before the vote was taken he would beg leave to make his views known, and at the same time would crave the indulgence of the house for his total want of preparation. We have determined that the legislature shall be composed of two houses, to-wit: the house of representatives and the senate. Every law must receive the concurrence of both bodies; and be subjected to a double supervision. Of course it is of absolute necessity that these bodies should be differently constituted. The republican doctrine is this, that political power ought to be committed to the electors. The design of our system of government is to carry into effect what may be considered the settled will of the majority; not a mere accidental majority, but, if I may so express myself, the permanent will of the majority.

What is the difference in the organization of the two houses of the legislature which has been deemed, and found by experience to be sufficient in placing them mutually as checks upon each other? The constituency of both are alike, that is to say, they are both chosen by the same body of electors. In the composition of the senate three conditions have been found sufficient checks against the errors, imprudences, or temporary excitement of the popular branch. They have been found to attain the object designed, and with them the system has worked admirably without any property qualifications. The Convention have decided that property shall not be a necessary ingredient of political power, and if any vote has been given to sustain the contrary doctrine, it has escaped my attention. The three distinct conditions, to which I have referred in the formation of the senate, are first, that the inexperience of twenty-one may be reviewed, and that by requiring maturer age, greater experience, and better judgment may be found. The subject may be considered in another point of view. By a longer term of service, greater stability and consistency is given to the senate. This, and an essential difference in the formation of the election districts, is sufficient to place the senate as an effectual barrier to improper or indiscreet legislation, which may grow out of temporary excitements, and sudden ebullutions in the house of representatives.

In a republican government like our own, where all power emanates from the people, every man is interested in the perpetuity of our institution and in their proper administration, whether he rolls in wealth or whether he be obliged to sustain himself from the fruits of his daily labor. The idea that property is essentially conservative is a fallacy. The plans and follies of men of fortune have done more harm among us in a few years, than could have been done in centuries by the rest of the population. It is that class of persons that have set at defiance our laws; that have violated them with impunity, and I feel convinced that if our State has been brought to the verge of bankruptcy, it is to be attributed to the improper influence which property has acquired over our legislation. Our institutions could not rest upon a worse basis than that. The only safe basis is one reposing upon the popular will.

Mr. Eustis insisted that the senatorial districts ought to embrace a greter extent of territory than the representative districts. Without this radical distinction, the two houses would present such a similarity as would render one of them entirely superfluous. The object should be to neutralize local influences which would be re-

presented in the popular branch, and to secure the representation of general interest. If, for example, you divide the city into four senatorial districts, it will no longer be the *ensemble* of the city which will be represented, but the local districts. The consequences of such a system will be most pernicious. The city has already been divided into nine representative districts; let there then be no division into senatorial districts; let her elect her senators, at least, by general ticket, and you will obviate some of the inconveniencies that will grow out of the division which has already been made. But if the dictates of sound policy are not to prevail; if we are determined to remain deaf to reason and argument, and there needs must be another division of the city, let us take for our guide the natural division of races. Let us divide the city from St. Louis street—the upper district will be composed of the Anglo Saxon; the lower of the Gallic race.

I have refrained from interfering with the formation of the districts in the country, although I am decidedly in favor of large districts, and should be pleased if such were the sense of the Convention. I voted in favor of giving a full representation to the parishes across the lake, notwithstanding the comparative sparseness of their population, because I conceived they had isolated interest that ought to be represented. The interests of the city are identically one and the same, and I trust that the unity of its interests may be preserved in the upper branch of the legislature, although I fear that such will not be the case. We want a strong government —a popular government, and the more popular it is the stronger it will be. If we fail to give it popularity, it will possess no force, and our labors will be useless in the annals of the State.

Mr. Soule regretted that he could not agree with the gentleman that had just addressed the Convention. Justice, in my opinion, requires that the Convention should sanction the proposed measure, and in so doing we shall only be carrying out a work already accomplished. I deplored the original division of the city into three municipalities, because I foresaw that it would lead to further divisions. But inasmuch as that division is consummated, and that we have realized its fruits, it is proper that the three distinct interests which it has created should be distinctly represented. All that now can be accomplished is to prevent the first municipality from being sacrificed to the second. If the city elect her senators by general ticket, that portion of the city which can give the greatest number of votes will decide the fate of the balance of the city; and where fraud can be brought to bear, the probity of one section will be the victim of machinations and corruptions of another. My experience and reflection has fully confirmed me in that opinion. In the third municipality, within a period of ten years, but six or eight fraudulent votes have been given at its elections. In the first municipality, or rather in some portions of that municipality, fraud has been rife; and in the second municipality, I may dare to say, it has been pushed to the greatest extremity.

We have been told with a great deal of force, that as relates to the senatorial representations, they should embrace a larger extent of interest than the representation to the popular branch of the legislature. That in the latter fractions of interest were represented, whereas, in the former, the entire interest of the whole locality ought to be represented. If this principle be true, then it results that wherever local divisions already exists they should be represented. No one can deny that the interests of the municipalities are opposed with each other, and that it has occurred that the interests of the one have been immolated on some occasion to subserve the purposes of the other. I dare to say that if the proposition of the gentlemen (Mr. Eustis) be sanctioned by the Convention, and I have not the slightest doubt of the rectitude of his motives, that before three years the second municipality will be able and will control the election of the four senators. If the Convention can bring themselves to believe that such a result would be just, that it would be fair, let them adopt the suggestion of the gentleman. But if on the other hand they think that the city proper is entitled to, and has an inalienable right of being heard, let them sanction that right irrevocably—let them ordain that the third municipality shall also have its senator. Far from me is the design of doing any injustice to the second municipality—I think too, that she should

have her separate voice to protect her separate interests. If it is thought that she is entitled to two senators, let her have them. All that I ask for, and it is for the common interest of all alike, is that they should be relieved from making the election by general ticket, which would result in the oppression of the one or of the other. As in reference to dividing the city into two distinct parts as suggested by the gentleman, (Mr. Eustis) and which he says is founded upon the natural divisions of races, it is one of the very worst and most exceptionable divisions that could be made. I will never sustain any measure calculated to divide population of different origin. Let the Anglo Saxons and the Gaul commingle together as American citizens: let them sustain the honor and glory of their common country, and let them never forget that however they may differ upon other points they should be one and inseparable in the maintenance and defence of our free and enlightened institutions.

The yeas and nays were called for upon Mr. Culbertson's motion to divide the city of New Orleans into three senatorial districts.

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Garcia, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff—37 yeas; and

Messrs. Cenas, Derbes, Dunn, Eustis, Hudspeth, Lewis, Mazureau, Roman, Roselius and Taylor of St. Landry—10 nays.

Mr. Mazureau gave notice that on Wednesday next he would move for the reconsideration of the vote dividing the city into three senatorial districts.

Whereupon, on motion, the Convention adjourned.

Monday, March 31, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. Warren.

The journal was read and approved.

Mr. Read asked leave of absence for Mr. Scott of Baton Rouge, and Mr. Hynson of Rapides, for a few days each; which was granted.

Mr. Winder asked leave of absence for Mr. Guion, on account of sickness; which was also granted.

Mr. Derbes asked leave of absence for Mr. Briant for a few days; also granted.

Mr. Read then asked leave of absence for a few days for Mr. Duplantier, acting as minute clerk. He stated to the Convention that Mr. Duplantier would leave a competent person in his place, and that it was a matter of great importance in some of his private business, to have the privilege of a few days absence from his duties in the Convention. Leave was promptly granted.

The President notified the Convention that this was the moment to review petitions and memorials, and reports of committees. In the absence of such, he suggested there was a discrepancy in the tenth section of the report as it stood: the last clause being a proviso, giving to the legislature the power in any year, to apportion the representation in the senate, and to divide the State into senatorial districts.

Mr. Downs moved to strike out the whole subject matter under discussion; which was seconded by the delegate from Assumption, Mr. Taylor.

Mr. Kenner remarked, that when the President announced the matter now before the Convention, he was in the act of presenting a resolution for their consideration, and as he conceived it of some importance, he hoped he would now be allowed to offer it. Permission being granted, the following resolution was read:

Resolved, that the committee on contingent expenses be instructed to report to the Convention what amount of money has been paid to the different printers, for printing already done to this date.

Mr. Mayo offered to amend the resolution by adding the words, "and to whom."

Mr. Kenner in accepting the amendment, remarked, that it was simply his object to arrive at the facts of the case. He wanted all the information possible before the Convention.

The resolution was then adopted, and reads as above with the words "and to whom," added after the word "date."

ORDER OF THE DAY.

Mr. Downs then renewed his motion to strike out, but remarked that it might be so amended as to read that when making the apportionment, they might divide the number when more than one. He therefore moved to strike out the words "each to be entitled to elect two senators," and insert "having more than one senator."

Mr. Wadsworth then addressed the Convention:

Mr. President—great injustice has been done to my parish in the apportionment of the senate. I have already said much on this subject, but I intend before we get through with this matter to say a great deal more. Why, sir, so far as I have been observing the action of this Convention, I am bound to say, that gross injustice has also been done to other parishes. Some have been improperly favored by a detestable species of log-rolling, while others have been the victims of that combination. I therefore give notice that I shall move a reconsideration of the vote allowing to Plaquemines, St. Bernard and Orleans right bank, one senator. But, sir, to the question now before the house: It is proposed to give the legislature the power of reducing, if more than one. In other words, when there is one already, there shall be no increase; this is not fair; we want a proper representation, and based upon proper principles. Let us then consult together, and base representation in the senate on property.

He (Mr. Wadsworth) thinks the delegate from Ouachita does not meet the question properly, nor in the proper spirit. He says all those who have two, may be interfered with. Now that is not the way to meet a question like this; we want permanency, we want it fixed distinctly and permanently. Property alone is the proper basis. We are no children, and we are not here to operate for the particular aggrandisement of any particular man or set of men. If that be not the object of grasping at political power, what is it? He hopes it does not arise from any particular desire to secure property without labor; and if it be not, then let your property be made secure to you by the laws of your country. And that will never be done if you give up the only safe-guard you have in the senate; for if you do, the needy-greedy men will make the man of property a hewer of wood and a drawer of water for them. It is much more important than for us to labor for the purpose of making some men great and distinguished. Yes, sir, property must be protected; what do men work and toil for? Property. What do even our clerks, our reporters, our secretary work for? Property. True, they have doubtless a strong desire to acquire reputation and character, but that is not the ruling, governing motive; it is to get money, to acquire property. Property is the *ne plus ultra*, the goal for which all men strive. It produces money, and that pays your taxes; that supports your government. Life and liberty are perfectly worthless without property. Every man understands this, and he (Mr. W.) repeats, that the pursuit of property is what we are all aiming at.

Why are laws made to punish for stealing? For the protection of property. All laws are made for it, and yet gentlemen are desirous, it would seem, of securing political power by alone consulting the interests of the poorer classes of people.

Mr. Taylor had intended to fill the blank, had the motion to strike out prevailed with another provision. As it stands now, it is perfectly useless. Earlier in the discussion of this question, he was disposed to have it permanent, but he now sees reasons which induce him to abandon the view he first took of it; and instead of making it permanent, look to future reorganization. He would move a substitute for the whole proviso, which reads as follows:

The legislature, in any year in which they shall apportion representation in the house of representatives, shall have the power to divide the State into senatorial districts. No parish shall be divided, in the formation of a senatorial district. The number of senators shall not be less than twenty-five, nor more than thirty-four; and they shall be apportioned among the senatorial districts according to the total population contained in the senatorial districts. *Provided*, that no parish shall be entitled to more than one eighth of the whole number of senators.

Mr. Taylor further remarked, that we have now apportioned senators to the dif-

ferent districts without any fixed rule as a basis. Some have taken territory, others population, others taxes paid into the State treasury, others taxes and population, and others population and territory combined; and probably others by neither of these. For his part, he was in favor, whenever it could be properly done, that total population should be the basis; but he had been governed in his action on the question before the Convention as now presented, by population and territory. In the present apportionment, he is satisfied in the main. He thinks it perhaps the fairest that could have been made at this time, but he should regret to see it made perpetual. Because the only reason which can probably be assigned, for the great apparent disparities in the different portions of the State as to population, wealth and taxes, is, that it may be owing to the short period of time that Louisiana has been established, and perhaps accidental circumstances may have promoted the growth of some sections of the State, which have led to greater population, while other sections have not progressed as much, with equal natural advantages, for the want of opportunity and time. We must then look to the future, and if they have the advantage of soil and climate, they will also doubtless become filled with an industrious and thriving community. When their natural advantages are developed, and we can safely do so, then we should abandon territory, as a component part of the basis, and make it total population alone. When time has been given to test the advantages of every portion of the country, it may, and doubtless will happen, that some parts will support an immense population, some comparatively thin, and some perhaps none at all. But he is clearly of opinion, that before many years shall have rolled round, the resources of every parish in the State will be so fully developed that then it will be right and proper to take total population as a basis. Many gentlemen think that the present appropriation is altogether too partial, too favorable to a particular part of the State. He was not himself disposed to accord it, as he was governed by the census of 1840; but so much has been said about the increase of population in that section of country, that it may happen she has not got too much. But while he would not move a reconsideration of the apportionment as it stands, he offers the substitute to provide for the future, and if it be found that the progress in any of those parishes has been as great as it is said it is, and they be entitled to more than at present accorded, why let them have it.

Mr. Brazeale moved to lay the substitute indefinitely on the table.

Mr. Claiborne hopes that motion will not prevail. He is firmly convinced that the substitute is the only way we can expect to destroy the system of rotten boroughs, which has been passed upon by the Convention. They deny that such is the case, and that they are entitled to what they have got; but if he (Mr. C.) is not much mistaken, they have agreed in anticipation of what they may be; not what they are.

Now, if these gentlemen have been sincere, heretofore, in their round assertions, here is a good opportunity to show their sincerity. For if they believe in the extraordinary increase, it provides for the very thing they want; that is the test by which they can be tried. If they support this motion we may well pause, and say perhaps we have been mistaken; but if they do not, we shall the more clearly see how we have been sacrificed to build up the political power of that section of the State.

The question was then put on laying the substitute offered by Mr. Taylor, indefinitely on the table, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Humble, McCallop, McRae, Mayo, O'Bryan, Peets, Porche, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Waddill, Wederstrandt and Wikoff, —29 yeas; and

Messrs. Aubert, Benjamin, Bourg, Cénas, Chinn, Claiborne, Conrad of Orleans, Culbertson, Derbes, Dunn, Hudspeth, Kenner, King, Legendre, Lewis, Marigny, Mazureau, Pugh, St. Amand, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Winchester and Winder—28 nays; so the motion to lay on the table prevailed.

Mr. Downs then moved the adoption of the amendment proposed by him.

Mr. Kenner then moved to lay the whole proviso, together with the amendment offered by Mr. Downs, indefinitely on the table.

Mr. Downs hopes the motion will not prevail. He shall vote against it, because he wants small senatorial districts. They are probably now inconvenient, but hereafter should they prove so, the legislature can cure the evil.

The question then recurred upon the motion of Mr. Kenner, to lay the proviso and amendment indefinitely on the table, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Cénas, Chinn, Claiborne, Conrad of Orleans, Culbertson, Derbes, Dunn, Eustis, Garcia, Hudspeth, Kenner, King, Legendre, Lewis, Marigny, Mazureau, Pugh, Ratliff, St. Amand, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Wadsworth, Wikoff, Winchester and Winder—32 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Downs, Humble, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Stephens, Voorhies, Waddill and Wederstrandt—28 nays; so the proviso and amendment were indefinitely laid on the table.

Mr. Downs then moved the adoption of a section in the minority report, as follows:

"And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district;" which was adopted.

Mr. Downs then moved to amend the 10th section, and insert in lieu of the words "eight senatorial districts," the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives; which substitute was adopted.

Mr. Downs then moved the adoption of the section as amended.

The first clause of the section read as follows: "The State shall be divided into the following senatorial districts; senators to be elected by persons qualified to vote for members of the house of representatives." The remainder of the section was the same that had already been reported.

Mr. Wadsworth said he wished to say a few words before the vote was taken on the adoption of this section of the constitution. He was seriously opposed to it, as he considered it a great injustice to that section of the country which he represented. He would repeat, that in 1812, out of a senate of seventeen, his parish had been allotted one senator, with half the population, property and wealth that she has at present; yet, with all these doubled, and the number of senators also doubled, has she not a right to two? Predicate your apportionment on any basis you wish, and she will be found fully entitled to two. Compare the allotment given to her with that of the pine-woods parishes. How ridiculous! Parishes that can scarcely support their own people have got two senators for the one given to those who bear the burden of filling the treasury, who pay the debts of the State. Parishes that have doubled themselves in wealth and population since 1812, are denied representation for pine-woods and sand banks. You might as well represent the deserts of Arabia! We are the wealth, the producing sources, and yet we are to have no power in the State! You give us half the number of those gentlemen who can scarcely live upon their resources. Let it not go abroad that this Convention has worked upon log-rolling principles. Show yourselves as high-minded, honorable gentlemen, who, when properly matured reasons, predicated on matters of fact, were laid before you, accorded the right due to all fairly and justly. When it has been ascertained that some portions of this State have been highly favored in the matter of this senatorial representation, will you have it said that you denied that portion that has aided you in the payment of your debts, any comparative amount of representation with others? If it is denied him, he would not say that he would expatriate himself from Louisiana, but he would say that it was the greatest piece of injustice ever committed against his section of the country, in the annals of history. In the house of representatives log-rolling was carried on,

he knew it, where small matters were concerned: and one gentleman would, when he wanted to carry some particular bill, perhaps, go to another and say, "If you vote for this bill of mine, I will support yours." But here, in this Convention, where the concentrated sovereignty of the State was assembled to commence such a system! It was beneath the dignity of this house to countenance such a course. He now gives notice that he would move a reconsideration of the vote on Thursday, with a view to increase the number of senators awarded his parish.

Mr. CONRAD moved an amendment to the clause, though, he said, without any hope of carrying it at that time. The amendment was to follow after "persons" in the clause, and reads "who shall have paid during the last six months, or who shall be at the time of election, liable to pay a State tax of one dollar." His object was, that as the lower house was formed without any reference to property qualification, he wished to see some regard paid to this principle in the election of senators. Electors should at least be tax payers.

Mr. CLAIBORNE moved to lay the amendment on the table, subject to call.

Mr. BRENT moved to lay it indefinitely on the table.

The question was put on Mr. Brent's motion, and the yeas and nays being asked for,

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chinn, Carriere, Chambliss, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, Kenner, King, Ledoux, Lewis, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Ratliff, Read, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—49 yeas; and

Messrs. Aubert, Beatty, Bourg, Claiborne, Conrad of Orleans, Legendre, Mazureau, St. Amand, Taylor of St. Landry and Wadsworth voted in the negative—11 nays; so the motion prevailed, and the amendment was laid indefinitely on the table.

Mr. CLAIBORNE said that there was no fixed principle whatever adopted; equal justice should, he thought, be shown to all classes, but in the course now pursued a most perfect abandonment of all protection to property had been adopted in the lower house. He therefore hoped that in the organization of what might be termed the conservative branch of the legislature, this principle would have been regarded; that is now, however, so formed, as to be the mirror of the other house; property, taxation, and even population has been disregarded, and the consequence is, that two-thirds of the State have had allotted to them about one-third of the representation, and consequently one-third of the population is awarded to two-thirds of the representation in the senate. He would repel all allusions to rich and poor. The only distinction he knew was, that he respected the honest poor man as much as he did the honest rich one; but that was no reason why those persons living in the poorer parts of the State should be accorded higher political privileges than those in the more wealthy portions of it. He would submit to it, however, if it was the will of the majority, but he doubted whether the people after them will accept it.

Mr. PRESTON was also opposed to it on various grounds: First, equal justice was not dealt out to all; second, he was opposed to the number of the senate—that was an error of the old constitution, it is one of ours; third, he was opposed to fixing the districts, as it was impossible for this Convention to say what will be required ten years hence: it should therefore be left to subsequent legislatures to determine what is fair and equitable. He would propose some such amendment as the following: "That the legislature of 1845 should lay off the State in senatorial districts in number not less than twenty nor exceeding thirty; that the same number of electoral votes should be included in every district, to be decided by the preceding general elections. The division to be made every four years."

Mr. TAYLOR of Assumption, would be compelled, he said, to vote against the adoption, as there was no provision contained in it for future apportionment. Had there been any such principle inserted, he would be in favor of it even as it was.

Mr. WADSWORTH would vote against the proposition for two reasons: first, that

he was fearful this apportionment was accomplished by log-rolling, and next, that it had brought about the worst sectional feelings between two parts of the country; feelings that may result in the worst consequences to the interests of the people at large.

Mr. Downs wished to place on record a refutation of the charges brought against this measure. The idea that injustice had been done one portion of the State more than another, was perfectly groundless; it was quite impossible that any apportionment could be made that would not disappoint individual members; every delegate was wedded to the interests of his own section of country; he was—yet he could not acquiesce in the opinion that injustice had been done. They had not adopted any basis in particular; the apportionment had been made with reference to the requirements of each district, and equally as far as it was practicable: yet he was far from impugning any man's conduct; he would not charge members with log-rolling, as the gentleman from Plaquemines (Mr. Wadsworth) had so courteously done. Wherever he (Mr. Downs) met an antagonist, if he could not beat him on fair grounds he submitted.

Mr. Kenner had no intention of stating his reasons for the vote he was about to give, but when he heard the observations which had fallen from the delegate from Ouachita, (Mr. Downs) in reference to the way in which this measure was carried on, he felt called on to join the delegate from Jefferson, (Mr. Preston) and the delegate from New Orleans (Mr. Claiborne) in their opinion on this subject. He would say it was a gross piece of improper conduct, and log-rolling, as ever was perpetrated on any floor.

When we have seen two senators allotted where one alone was due, and where, *vice-versa*, we have seen only one given to those districts entitled to two, honestly and fairly; and then, when we term that log-rolling, we are coolly told that it is mortification and chagrin by which we are governed. For his (Mr. Kenner's) part he denies that, and he takes this occasion expressly to say, while disclaiming any such motives, that the course pursued in this matter heretofore by the member from Ouachita (Mr. Downs) and his friends, has been an arbitrary one, and a downright and flagrant act of injustice.

Mr. Claiborne asserted that his opposition arose from principle, he felt no personal ill-will or cast no reproach upon any gentleman. Every principle of justice had been departed from in the formation of the senate. The senatorial representation had been snatched from lower Louisiana and given to distant districts. He repeated what he had before asserted, that he opposed the adoption because he considered it unjust, and made without due regard to the interests of every portion of the State alike.

Mr. Saunders is opposed to the section as it stands; the substitute which has been offered and rejected comes the nearest to getting a fair and equal representation in the senate. As it is now, it is unequal and unjust, and is evidently a political combination for political purposes.

Mr. Taylor would make no such imputation on the motives of others. He feels that he himself, in opposing the section as it stands, will act according to the best dictates of his judgment; he regards it as unequal, but at the same time others who sustain the measure may be by principles equally pure.

Mr. Lewis remarked that he did not rise to discuss this question, but simply to assign the reasons which would govern him in his vote. He opposes it with reluctance, but when he looks at the unfair and unequal distribution made in some parts of the country, to the injury of those parishes which are every way entitled to equal representation; when I see, said Mr. L., great and glaring errors in the section as it stands, I am compelled to vote against it, with the hope that the Convention will retrace their steps, and fix upon some principle on which to base a just and equal representation throughout the State. Although we are told that we ought not to begin this matter over again, that it will be a long and tedious business, still I think that the best interests of the country will be promoted by doing so. There is another reason, Mr. President, which has great weight in influencing me to vote against: it is this—that I am particularly desirous of seeing important changes made in our existing constitution, and I feel convinced that this very section, if incorporated in the new constitution, will defeat it. It will create so

much dissatisfaction that the people will not ratify it, after all our labors. We shall then be left where we were before this Convention met, and even in a worse position; for after such a total failure as we shall have made, it will be more difficult than ever to get another Convention called. And now one word to the reporter; I will thank him to report what I do say, or not report me at all. My remarks made on the 24th instant, are reported in such a puerile and ridiculous style as to call for this request from me.

Mr. RATLIFF regrets to hear so many severe remarks as have been made on this question. The strictures and reflections which he has heard are not calculated to produce harmony, or good of any kind; for his part he is willing to take the section as it stands, as a man takes his wife, for better or for worse. If there be such gross, such glaring injustice as we have been told exists in the section, why are they not pointed out? Why are not reasons shown why they should be corrected? If they be so glaring and so oppressively unjust, he for one is ready and willing to correct them; but no, after all, we hear of but one complaint, and that is a struggle for one other senator.

Lafourche got what she wanted; New Orleans what she wanted; Attakapas and Opelousas all they could possibly desire—all are satisfied except Plaquemines, and she wants one more. If that be the state of the case, where is the glaring injustice? where the great political combination with which we have been charged? He (Mr. Ratliff) *emphatically denies*, and he called upon the reporter to particularly note it down, that he emphatically repudiates the idea that he has any thing to do with a political combination for party purposes. He (Mr. R.) did not come here to make a constitution for a party, but for the whole State of Louisiana. He was never known to be engaged in political caucusing, he has, and he always will act conscientiously, irrespective of party; and those who knew him best and longest, know that well. The great difficulty seems to be that the delegate from Ouachita has got two senators in his district more than he is entitled to; now if he has done so, he (Mr. Ratliff) does not know it; but if he has, he did it manfully, and by his superior skill and management. He came boldly forward, and lustily did he maintain the justice of his cause; if they have fallen in the rencountre, they are unfortunate; they must take the chances of war, even though it be defeat. For his (Mr. R.'s) part, he gives him credit for his boldness.

But let us see if he has taken more than he is entitled to. They say that the northwestern parishes have gained two, to which they are not entitled; and yet they have not shown us how. If they had pursued the course he wanted them to take, to have reduced the number of senators to twenty-five, and then equalized the districts, giving to each its just proportion, all this noise and outcry about injustice we should never have heard one word of. But no; then the delegates from St. James and Ascension wanted to go into detail; and now, after all the labor, they want to destroy the the whole. They got the first slice off the loaf, and yet they are not satisfied. If Ouachita has gained any thing in the apportionment, it is an advantage to them which cannot be helped. He (Mr. Ratliff) does not want the legislature to interfere in this matter at all. He wants the senatorial districts permanently fixed in the constitution, that people may have something to depend on. If a man be poor, and he pays only one dollar into the treasury, he suffers as much in paying that one dollar as if it were one hundred, that the rich man pays. Where then is the difference?

He (Mr. Ratliff) thinks that both the senate and house of representatives are too large; thirty-four in the first, and ninety-eight in the second; but now it cannot be helped. Nobody voted to reduce it, and now when we have exceeded the report of the committee by two only, it is a dreaded increase; and yet they produced that increase themselves; one in St. Mary and St. Martin, and one in St. Landry. If the delegates from Jefferson, from Plaquemines, and from Iberville, had got one more apiece, they, like the fellow when he got his pockets filled, would have been perfectly satisfied.

The out cry they make about the piney-woods plantations getting two senators, is all for effect; for they know that East and West Feliciana gave it to them, and when it is seen that the six Florida parishes pay as much into the treasury, and have as

large a population together, as any other parishes having four senators, why should there be all this complaint? East and West Feliciana had a right to give her excess in both taxation and population to the piney-woods parishes if she chose, and she has wisely done; for there is an identity of interest and feeling between them, their citizens intermarry with each other; in fact they are her right bower. And yet there is great complaint; the delegate from Plaquemines incessantly complains about the crying injustice done to his parish, and taxes us with having formed a political combination. New Orleans don't ask equality, she has got all she asked for. These complaints then are without foundation. As for the political combination of which so much has been said, it is an unjust imputation. He does not believe one word of it. He (Mr. Ratliff) shall vote for the adoption of the section, because he does not believe it can be bettered.

Mr. Claiborne objects to the argument advanced by the gentleman from Feliciana, (Mr. Ratliff) that East and West Feliciana have a right to give their excess to the piney-wood parishes, because if that argument be good, New Orleans may with equal propriety give her surplus of wealth and population to the parishes surrounding her; and if she were to do so, she would give one to every parish adjacent to her on the river, for sixty miles; that distance where her baneful influence, it is said, is felt.

Mr. Conrad said, if the argument of the delegate from West Feliciana be a good one, why should not the principle be applied between Jefferson and New Orleans, where it is universally admitted the intercourse and identity of interests are much greater than that between the eastern and western portions of the Florida parishes? He (Mr. C.) will not only vote against this section, but against any constitution which contains any such odious feature. It will, if it be passed, be the most flagrant act of injustice that was ever perpetrated, and Louisiana will be the first State that has ever been guilty of inserting such a clause in her constitution.

Mr. Splane remarked that if there was any gerrymandering in the case, it must be on the side of those who are complaining so bitterly about it, or in their fruitful imaginations.

Mr. O'Bryan thinks gentlemen are in error when they say that the first and second districts gave a larger number of votes than the third and fourth districts; but if they will examine their tables, they will find that instead of giving two-thirds, they only gave a little over one-third.

Mr. Mayo remarked with some astonishment, the charge of gerrymandering, applied to some of the members of this body. He has heard it advanced to-day for the first time. If such an idea has ever entered in the head of any member of this Convention, he knows it not—certainly it never has been thought of by him. But since it has been dwelt on in such strong terms, he desires to call attention to the fact, that there is not such great disproportion as they seem to suppose. Now, the first and second districts, in one of which New Orleans is situated, and which is restricted by common consent, (and which is the only restriction he, Mr. M., knows of) they are entitled to eleven senators for ten thousand nine hundred and twenty-one votes; the third district to eleven senators for seven thousand four hundred and thirty-three votes; the fourth district to twelve senators for eight thousand six hundred and one votes. Again, taking it on territory, entire population, white population, or any basis, he does not think that any body of men could make it fairer than it is. He differs entirely from the delegate from West Feliciana, (Mr. Ratliff) who says the north-western parishes have got the advantage in this apportionment; for they have nothing more than what justice accords them.

Mr. Ratliff said he wished to state one other fact, that he intended to state when up, but omitted it. Gentlemen on the other side complain that the senatorial districts of this State do not correspond with the congressional districts, that the third and fourth districts have a large majority of the State senators. I happened to be a member of the legislature when the State was laid out into four congressional districts, and well remember the memorable struggle on that occasion; and that the party opposed to myself in politics were in the majority; and at one time the districting the State at all, was almost entirely

despaired of; and that I supported the final passage of the bill in opposition to many of the leading members of my party; and if gentlemen districted the State into congressional districts unequally, why now complain that those districts being the largest should have the majority of State senators.

Mr. Downs said: Mr. President, I have been so often alluded to in this discussion, especially by the member from East Feliciana, (Mr. Saunders) and the member from St. James (Mr. Kenner); and so often and so pointedly held up to the Convention and the public, here and elsewhere, as the author of all the troubles, and difference of opinion and excitements in which we now find ourselves; and of all the injustice that has been done by one section of the State to another; that in justice to myself, in justice to the friends with whom I act, and above all, in justice to my constituents and the quarter of the State from which I come, I cannot suffer the question to be taken without some reply to these unexpected and unauthorised charges. The representation in the senate, which has now been established in detail by the Convention, and on which you are about to put the final question, is said to be unjust, to give too much to the fourth district, and to be my project. I deny, sir, both these charges. This representation is most unjust, but if it were, it is not the work of my hands; it is not my project. The minority report is my project; this section as it now stands is based on the report of the majority of the committee, with some slight modifications. Had the report of the minority been adopted it would have been less tinctured with politics than this, for if there is any political bearing in either, it is in the one now adopted, not that proposed by me; and is against my party.

It is said by some that I wield great power in this hall, and always for party purposes. It is not uncommon in debate to flatter that we may conquer, to magnify the power of an opponent to destroy him. But how have I shown either my power or disposition to favor my party in this matter? Did I oppose St. Mary and St. Martin having two senators instead of one? Did I oppose St. Landry and Calcasieu having two? or would I have succeeded if I had?

If I had the political power, with the will which has been ascribed to me, of putting down political opponents, is it not likely I should have made some effort to do so, when I knew that not one of the senators thus provided for, would support the measures of the party with whom I act? No, sir, I looked at the measure, as I always do in my private and political relations, as an act of justice between equal parties. I found they were justly and fairly entitled to them, and I did not say a word against them.

How was it when one senator was allowed to Concordia and Tensas? What interference there? How with Carroll and Madison? was there any interference there? If I had had any political power, and was using it for political effect, I should certainly have made some effort to combine them differently. No, sir; I am actuated, I always have been actuated by a desire to do right.

There may, sir, it is true, be some inequality, some injustice done to the parishes of Plaquemines and Jefferson, they may have some cause to complain. But why should they blame me? The member from Lafourche, (Mr. Guion) in his project took one member from my senatorial district, leaving but one to four parishes, though by no project was more than two parishes in any case given but one member or put in one district. I thought the Conveniion would adhere to the number, thirty-two, and that unless one was taken away from that neighborhood, none would be left for my district. If I had thought the number would have been extended beyond thirty-two, I should not so seriously have insisted on this reduction. But I do not think there is much cause of complaint, particularly as to Plaquemines, since one of her delegates concurred in the minority report, which allowed her but one.

There is a better way of retracing our steps than saying we have been at childs' play. If we cannot amend any thing that is wrong in this report, we shall be boys indeed. Let us, then, reconsider any thing that is wrong. Let us correct any errors into which we may have been led; but do not reject the whole.

I am astonished at the strong feelings which I see evinced on this occasion. The feelings of the honorable members from Plaquemines and Jefferson are natural, because they think justice has not been done

them. But why should there be so much feelings with others? Why should the member from St. James (Mr. Kenner) and the member from East Feliciana (Mr. Saunders), both of one party, and the leaders of one party, when they do not pretend that any injustice has been done to either of their districts, so much complain of the party movements of others. Was there any party movement in putting in the Lafourche district the four senators for five parishes, into two districts instead of four? Why was not Ascension and St. James divided? What will be the effect of the present combination? Four senators of the whig party constantly, whereas if the district had been divided there would have been generally one, some times two democrats elected. Hence the earnestness of the member who now accuses me of political motives. Let him take the beam out of his own eye first. Let him divide Ascension, and St. James, and Assumption, Terrebonne, and Lafourche, first, and then complain of me for political motives.

For his (Mr. Downs') part, he wants no combinations, no distribution made, unless upon the principles of justice. "*Fiat justitia, ruat coelum.*" All that he knew of the report now before the Convention, was that he had gone through the details, but he declares before God, he never thought of political calculation; never thought of calculating the political effect it would have. He hopes sincerely, that no effort will be made to spread so false an assertion, that he has ever endeavored, either by log-rolling or otherwise, to procure political power. It would be a disaster to the State, if such an idea were to get abroad, that either party could so far forget themselves. It will create bickering and heart burnings without end. But if any effort be made, if the idea even prevail that political feeling is to be mixed up in this controversy, to defeat the constitution, let them not lay that flattering unction to their souls. No scheme could be devised so effectually to defeat the object they aimed at; that would leave the success of their opponents no longer doubtful. There is no good in trying to defeat it by such means, but much danger to all who attempt it.

He (Mr. Downs) protests against constant allusions being made to him, and his position in the fourth district. To hear some talk of him on this floor, one would think he never breathed nor moved without some political object. They are mistaken if they think prejudice will be excited against him in this hall, in which he is broadly accused of his political dependence on the fourth district. Gentlemen are much mistaken if they suppose that he has any political dependence there or elsewhere. He can tell them, if he would, but he will not, how and why he has less interest in political in that quarter than any other man on this floor. And yet they all cry out that his part of the State are depending upon him! They are all parading it forth that he is seeking some particular political object in every thing he says and does, and forthwith they are down upon him, as if their politics salvation depended on thwarting him. All he can say is that he came here with good intents, and to act to the best of his humble ability for the public good; and those who are now so fond of assailing him here, had better take care, for they ought not yet to have forgotten that they have made one democratic president, for Van Buren would never have been president if he had not been rejected by the senate. He was fighting the peoples' battle, and they rushed promptly and steadily forward to his rescue. Now, if he (Mr. Downs) wanted to acquire political renown and fame, he would say to them, go on, gentlemen, redouble your attacks; but he has no political aspirations; he has no object in view from any course he has pursued in public life, here or elsewhere. He looks not beyond the question before him; and he strives to do his duty faithfully to those who sent him. But do gentlemen suppose that if they succeed in putting him (Mr. D.) down, and with him the fourth district, that they will remain quiescent? No, indeed; put him (Mr. D.) and his other friends in this hall, down, (so that they be forever silenced,) you will soon find another set here who sustaining their rights you will soon find another and more powerful voice springing up to supply their places, a warroir's from the dragons teeth. He (Mr. D.) has no power but what they (the people) possess. The gentlemen fight not against him; and whether he is prostrate or not, the principles he advocates will still remain. He regrets to find these attacks made upon

him; but he is constrained, he is obliged to repel them.

It is well known that the delegate from West Feliciana (Mr. Ratliff) and he brought forward the plan to amend the constitution, perhaps that may have had some influence in their course towards him; perhaps again, there may be some lurking feeling that their power is gone, since this movement to amend the constitution commenced, which would naturally make them indignant. He can attribute the course pursued towards him to no other rational feeling. If it be so: he regrets they are not more liberal and patriotic. A suspicion exists in his (Mr. D.'s) mind, that there were certain leaders, who were in favor of the great reform we have met to endeavor to effect, but they cannot prove their sincerity by opposing it. He (Mr. D.) has no personal feeling on the matter. Results may operate against him as well as for him: but it is nevertheless from opinions according to the dictates of our own hearts, while some enter into them more from feeling than innate propriety.

If there be any plan that is preferable, why not adopt it? Why not amend the section and change the basis? Well, what basis shall we fix? Some want property; some total population; both these have been already rejected.

Now suppose we do set the report aside. The only basis which we have as yet established, is the electoral basis, and if you send it back what will be the result? There is no other basis on which we can agree, that would bring about a different result. The fourth district would be gainers by any other basis you would take.

The question to be asked is this, "is it intended to produce distrust and odium on this Convention? Are we to be regarded as a parcel of children, who put up a cock crib just for the pleasure of knocking it down again? There must be some hidden object in all these movements, which time alone can develope. We are here to do all that we can, we cannot be expected to do more; why then destroy what we have done; at the end of the proceedings they come up and destroy the whole. Is it intended by the constant reference to the house of representatives, that we are to break up and get into confusion? Is it to upset all and begin again? Are we to go back again, and act over the scenes on the suffrage question? Do it, and you will find the whole party will be overthrown and destroyed. If you do that we shall all be where we started in January last.

Soldiers often fight in a cause they don't understand, but he would ask every member to pause and reflect, for upon this vote will probably much depend the trouble which is ahead of us. For his (Mr. D.'s) part he shall go on as usual, but many may have cause to regret the course they are pursuing. The yeas and nays will shew the injustice, if any, and he is willing to meet it on its merits. If they believe any body is wrong, let the people say so; and when it is generally pronounced throughout the State, that the feeling commenced about Lafourche, St. Martin, St. Mary and St. Landry, and that there was a burst of political feeling about East and West Feliciana, and the Florida parishes, the people will know how to judge.

He (Mr. Downs) is of opinion that the apportionment we have made will be as satisfactory as any that could have been made with the information we had before us. Try it then. He does not think there is any danger of dissatisfaction, but if there be, he is not the cause of it; when his part of the country was assailed, then it was alone that he objected to the report. He never interfered after that; in fact it was the great leader of the whig party who has had more to do with it than any one else. Upon the whole he thinks the distribution a fair one, and whenever the majority settles it, he will abide by it.

The question was then put on the adoption, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Downs, Garrett, Humble, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Waddill, Wederstrandt, and Wikoff—31 yeas.

Messrs. Aubert, Beatty, Benjamin, Bourg, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Hudspeth, Kenner, King, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, St.

Amand, Saunders, Sellers, Soulé, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Winchester and Winder—34 nays; so the motion was lost, and then,

On motion, the Convention adjourned till to-morrow morning at 10 o'clock.

TUESDAY, April 1, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer.

Mr. RATLIFF, chairman of the committee on contingent expenses, to whom was referred the inquiry relative to the several amounts of money paid the printers, reported that five thousand and seventy-four dollars had been paid for printing up to date, including one hundred dollars paid to J. Byon for printing the journals of the Convention of 1812; of this amount three thousand four hundred and seventy-four dollars had been paid to J. A. Kelly; to Besancon, Ferguson & Company, one thousand dollars; one half of which amount on account of extra printing; and five hundred dollars to J. Bayon, for subscription to his paper. Nothing had been paid J. Bayon for extra printing, because no account had been presented by him.

Mr. CHINN said, that having voted with the majority yesterday, he would move for the reconsideration of the vote on the section relative to senatorial apportionment. He would propose something in the shape of a compromise. It was not entirely satisfactory to himself, and he was prepared to relinquish it if any thing better could be suggested. Previous to submitting it in a more formal shape, he would state its general outlines. He proposed to give an additional senator to Plaquemines and St. Bernard; an additional senator to New Orleans, giving to the second municipality two senators, so as to place her upon an equal footing with the first municipality; an additional senator to the parish of Jefferson, and an additional senator to the county of Iberville. This would carry the number of senators to thirty-eight. When it was recollected that the sessions of the legislature were to be held biennially, the objection of the additional expense, was a matter of but little moment. Whether the number were thirty-two, or thirty-eight, was not of much consequence, and inasmuch as the number had been tacitly fixed at thirty-two, it was better to add a few more to obviate well grounded complaints of injustice to certain parishes. In connection with this subject, it would be well to take up another proposition which had been submitted by the delegate from Lafourche, (Mr. Taylor) that the legislature should have the power of apportioning the districts. If that proposition were carried it would facilitate action upon the section. It contained a very judicious principle, that no one parish should have more than one-eighth of the whole number of senators.

These are briefly (said Mr. Chinn) my views in relation to this matter. I have not consulted with any individual in particular, in regard to it.

Mr. WADSWORTH moved to refer the subject of apportionment to a committee of five, with instructions to allow one senator more to the parishes of Plaquemines and St. Bernard; one more senator to the parish of Jefferson; one more to the county of Iberville, and to report in favor of the election of the four senators allowed to New Orleans by general ticket, and to report to-morrow.

Mr. MILES TAYLOR moved a recess of half an hour, to enable members to consult upon the subject.

This motion prevailed.

On reassembling, Mr. VOORHIES moved to reconsider the vote upon the section.

Mr. WADSWORTH said it would be better to remain a month longer in considering this subject, than to make an unjust apportionment. We did not come here for our own convenience, but to do the public business, and that business ought to be done in a satisfactory manner. He renewed his motion to refer to a committee of five.

Mr. HUMBLE sustained the motion to reconsider, and thought that with some amendments the sections would be rendered satisfactory to all.

Mr. CLAIBORNE moved to postpone the vote on the motion to reconsider until to-morrow at 12 o'clock, as by that time the Convention could come to an understanding as to the mode of proceeding for the purpose of obtaining a satisfactory apportionment. He declared that the two first

districts had been sacraficed to the two others, and was of opinion that what was taken from the city should be divided among the parishes of the first and second congressional districts.

Mr. WINCHESTER asked if the motion to reconsider should prevail, whether the section would be open to amendment, without a separate vote of reconsideration on every paragraph. Many members opposed the section from various and conflicting motives, so that ample room for amendments must be allowed. It would be better, perhaps, to fix a basis of apportionment, and refer the subject of apportionment to a committee.

Mr. VOORHIES observed that experience had shown that the reference of similar subjects to the Convention had produced no good result.

Mr. CONRAD wished to know positively if a reconsideration in precisely the state in which it stood before the final vote—that is, whether subsequently it would be necessary to have as many partial votes of reconsideration as there were senatorial districts, or whether a vote of reconsideration would bring up the whole subject again, susceptible of any modification or amendment. This was an important point which should be clearly understood before the vote, as the decision would greatly influence that vote.

Mr. SAUNDERS proposed a resolution providing that all the paragraphs of the section should be reconsidered by one and the same vote.

Mr. RATLIFF maintained that the reconsideration should at first be taken on the entire section, and subsequently upon the details.

The PRESIDENT decided that if the motion to reconsider prevailed, the section would come up for amendment or modification.

Mr. CLAIRORNE said that the section had been framed without any fixed basis or principle. It was evident, therefore, that if we recommenced in the same manner we would arrive at a similar result.

Mr. BRAZEALE moved to reconsider the vote on Mr. Miles Taylor's proposition, empowering the legislature to fix the apportionment in the senate hereafter in any year in which they may apportion representation in the house of representatives.

The motion to reconsider prevailed.

The question recurred on the adoption of the proposition.

Mr. BENJAMIN hoped that it would be adopted inasmuch as its adoption would greatly facilitate the final disposition of the subject of apportionment in the senate. If members could only be assured that there was a remedy hereafter for any inequality or injustice in the representation, they would accept of the present apportionment.

Mr. PRESTON sustained a similar view of the subject. He said the chief cause of the rejection of the section yesterday, was the failure of this proposition. Had that proposition been adopted, he would not himself have voted against the section, although it did great injustice to the parish of Jefferson, and was obnoxious in some other particulars. What he particularly objected to in the section was, that it perpetrated perpetual injustice. If we adopt the proposition of the delegate from Assumption (Mr. Taylor) we obviate that objection. There will be a remedy, and those who complain with just cause against the injustice of this apportionment will submit to a temporary wrong, knowing that there is ultimate redress. They will submit as a man would submit, who, having a just cause, should lose it and have the right of an appeal to a superior court to do him justice.

Another objection to the section was, that the apportionment was not made upon any substantial data. The United States census for 1840 was no criterion of the population in 1845, in a State where population was increasing so rapidly. The voters at the last presidential election, he considered a better criterion, but it has been strenuously objected to on account of alleged frauds. There is nothing definite in the documents before us to make the representation with any certainty; that, however, would be a matter of no consideration, if we could obtain justice hereafter—if we could have a rule established which would be equal and uniform in its operation. If we can obtain justice in 1848, he would willingly submit to present wrong.

Mr. BENJAMIN moved an amendment making the duty of the legislature imperative in apportioning the senate. Adopted.

Mr. SAUNDERS moved to add after the word "population," the words "and slaves."

Mr. BEATTY considered this amendment totally unnecessary.

Mr. PENN presented a substitute to the section, that the legislature be empowered to make the apportionment.

Mr. KENNER moved to lay said substitute on the table.

Mr. LEWIS objected to this course. He deprecated all hasty and inconsiderate action. In the original resolution he objected particularly to the basis of total population, and thought no senatorial apportionment could be fair, in which territory did not enter as an element of the basis. He was willing to combine the white population, taxation and territory into one basis. He maintained the necessity of a different basis for the senate, from that selected for the house, in order that the two branches being differently constituted, might operate as a check on each other. If he had a favorite basis for the senators, it was territory, whether the land were rich or poor; and this he would select, if the Convention preferred an exclusive basis.

Mr. KENNER opposed the substitute, because it had nothing definite about it, leaving the basis of apportionment to the whim and caprice of the legislature.

Mr. WADSWORTH said that if the territory were taken, Plaquemines would be entitled to one-third of the entire senate.

Mr. BENJAMIN said that these substitutes frequently threw the Convention into confusion. Why not amend the resolution to suit the views of the Convention?

Mr. HUMBLE moved to lay both resolutions on the table; subject to call, and take up representation.

Mr. PENN withdrew his substitute, and Mr. Humble then withdrew his motion.

Mr. WADSWORTH suggested that there was one provision in the proposition, which conflicted with the section of apportionment. It declared that no parish should be divided in the formation of a senatorial district. In the section of apportionment, that part of the parish of Orleans on the right bank was added to the parishes of Plaquemines and St. Bernard. He had no objection to relinquishing it to the parish of Orleans, if the delegation from the city desired it. There was another point in the proposition to which he would invite attention: the number of senators was fixed at thirty-four; he objected to that number, because there were three or four districts to be provided for, which would make the number thirty-eight. He referred to the parishes whose senatorial delegation was deficient, and to whom justice ought to be done. It was a great mistake to suppose that small legislative bodies were better adapted to subserve the public interests than large bodies. Small bodies admitted of combination and intrigue, they facilitated log-rolling, and it was in the power of a few individuals to obtain complete control over them. There was no doubt that a greater number of senators were accorded to some sections of the country than these sections were entitled to; but inasmuch as it has been done, and not to travel over the same ground, he would propose that the number of senators be fixed at thirty-eight, and that the additional four senators be allotted in the manner which he had already indicated.

The city had been arbitrarily deprived of the right to a full apportionment, and what had been taken from her should be given to the surrounding country.

Mr. GARRETT submitted a substitute, in which the basis is composed of territory and white population; the senate limited to thirty-four members; an enumeration of the population to be made in 1855, and every tenth year thereafter,—no parish to have more than one-eighth the whole number of senators.

Mr. CLAIBORNE moved to lay these propositions on the table, subject to call.

Mr. KENNER objected. It was yielding all the advantage gained by having brought the subject before the house. If postponed, no basis would ever be established.

Mr. RATLIFF said that to place negroes in the basis of apportionment, was abhorrent to his feelings. They were recognized in our laws as property, and they were nothing else. He has heard one delegate say that this was nothing more than a struggle for political power. If this were so, it was time for the cotton region to look out for itself. If the war cry is to be raised, and it is actually a struggle for political power, we will have to draw the sword and throw away the scabbard. We shall have to take our position with our backs to the wall. I was glad (said Mr.

Radliff) that the gentleman from Acadia (Mr. Kenner) explained what he intended by one of his remarks. I was electrified, because I understood him to say, that one interest in this house had the advantage, and that they would keep it. But the gentleman has disclaimed any such meaning, and I am gratified to hear it. I know that gentleman too well to believe he would take any undue advantage. I am guided in my votes by my convictions of what is just and proper. Sometimes I vote with gentlemen with whom I concur in political sentiment; but whenever I think they are wrong, I vote against them. This is however, an honest difference of opinion. It does not show their want of integrity, nor mine. I have not come here to be blindfolded.

Gentlemen have spoken of a compromise. And what is the compromise they propose? They ask us to concede four senators more. I am reluctant to concede another senator to Jefferson, not because I do not think her entitled to it, but because with the city of New Orleans, with which she is closely identified, I think that she will have her full share of political power. The cities of New Orleans and Lafayette are destined to be blended together. They are even now separated but by an imaginary line, and as long as I have been a member of the legislature, I would be unable to discover the boundaries that separate them. Actual experience has demonstrated to us that the city of New Orleans with but one member of the senate, has been fully able to protect herself. There is not an instance on record, in which she has been oppressed by the country. But I am sorry to say that the reverse has been the case with the country. The country has been oppressed by the city; look at the wharfage bill, and the vehement efforts that were made to continue that system of exaction. The representatives of the surrounding parishes were on that occasion, as on all other occasions, where the interests of New Orleans are involved, combined with the city. From the Balize to the bayou Lafourche, the only exception was in the representative of the parish of Terrebonne. I remember that parish, since elected to Congress, united with me his vigorous efforts to overthrow that iniquitous system. Let the gentleman from Plaquemines traverse his votes, and it will be seen that he has invariably voted in favor of the city. He has looked to the interest of Plaquemines and to the interests of New Orleans to the end of the chapter. That gentleman has spoken disparagingly of the resources of the Florida parishes. He has complained that their soil was sterile. But I feel sure that the gentleman did not complain when these same miserable parishes, as he appears to consider them in relation to apportionment, gave their six hundred votes majority for Polk. He did not then consider them sand-hill cranes. I hope that he will live to repent it. But it is not by caricatures that gentlemen can succeed in disfranchising the citizens of any portion of the State, and if we are driven to the wall, and the third and fourth congressional districts are compelled to combine in their own defence, they can defy all attempts to sacrifice them.

Mr. Humble considered this a very important matter. Let us not destroy what we have done. He should have preferred, and it would have been better, had we in the first instance established a basis of representation. But inasmuch as we have progressed without one, let us consummate our labors. If there be inequalities in the representation, let us remedy them. Let us first heal the wound that may have been inflicted.

Mr. Downs suggested to Mr. Garrett to withdraw his proposition, and offer its principles in detail. Mr. Garrett did so.

Mr. Mayo moved to strike out "total population" from Mr. Taylor's project. Lost—yeas 28, nays 34.

Mr. Eustis maintained that the amendment suggested by the delegate from Feliciana (Mr. Saunders) to add the word "slaves" to "population," was entirely superfluous.

Mr. Preston sustained the same view of the subject.

Mr. Saunders modified the amendment proposed by him, so as to read the "total population, Indians excepted."

Mr. Wadsworth objected to excluding Indians. He could see no good ground for such an exclusion. They were the original proprietors of the soil, and it was true that we had taken their lands from them.

But surely that is no reason why we should deprive them of political privileges.

Mr. SAUNDERS explained that his object was to prevent quibbling, but he withdrew the amendment.

Mr. LEWIS moved to add the words "and territory" to "total population."

Mr. DOWNS moved to amend by excepting sand banks, impregnable swamps and sea marshes. Lost—yeas 23; nays 29.

The question then recurred on Mr. Lewis' amendment to add to the words "total population" the following, "and territory equally," and called for the yeas and nays.

Messrs. Brazeale, Brent, Brumfield, Carriere, Chambliss, Downs, Garrett, Hudspeth, Humble, Labauve, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Taylor of St. Landry, Wederstrandt and Winder—30 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Kenner, King, Ledoux, Legendre, Lewis, Mazureau, Preston, Pugh, Roman, St. Amand, Saunders, Sellers, Splane, Taylor of Assumption, Voorhies, Waddill, Wadsworth and Winchester—32 nays.

Mr. MAYO moved to insert before the word "population," "white, and three-fifths of other persons."

Mr. BEATTY called for the previous question.

A motion was made to adjourn; lost, yeas 30, nays 31.

But before the question was put on Mr. Beatty's call for the previous question, on motion, the Convention adjourned.

WEDNESDAY, April 2, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. HINTON.

The journal of yesterday was read and approved.

RESOLUTIONS AND REPORTS OF COMMITTEES.

Mr. BEATTY desired to offer some resolutions, which he conceived were much wanted in this Convention, and asked the dispensation of the rules that they might be considered:

Resolved, that all motions to lay on the table shall be decided without debate.

Resolved further, that when the previous question be asked, and maintained by the Convention, the vote shall be taken on all the amendments proposed without debate.

Mr. PORTER objected, for, he remarked, it would cut off all debate; and was about to state his reasons more fully when,

The PRESIDENT reminded him that the resolutions were not properly before the Convention, and therefore not debateable.

The question being then put, "will the Convention dispense with its rules," it was decided in the negative.

Mr. CHINN rose to call the attention of the Convention to the importance of this matter. He does not think they are sufficiently impressed with it, or they would have given it more ready attention.

A pause ensuing,

Mr. BRENT asked for leave of absence for Mr. Chambliss; which was granted.

Mr. BEATTY then remarked, that as the house seemed to be fuller, he would again press his motion, and moved to reconsider the vote taken on the dispensation of the rules. It had been remarked by the delegate from Caddo, (Mr. Porter) that if these resolutions be adopted, all debate is cut off; but this is not so. The only alteration will be that the amendments will be adopted or rejected without debate, after the previous question has been sustained.

Mr. PORTER: That is the reason why I objected.

Mr. MAYO is now disposed to vote for it. He did not understand it when it was presented before.

The motion to dispense with the rules was again submitted to the Convention and lost, four-fifths not having sustained the motion.

ORDER OF THE DAY.

Section 10. The substitute offered by Mr. Taylor of Assumption, as follows:

"The legislature, in any year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of senatorial districts. The number of senators shall not be less than twenty-five, nor more

than thirty-four, and they shall be apportioned among the senatorial districts, according to the total population contained in the senatorial districts; provided that no parish shall be entitled to more than one-eighth of the whole number of senators."

Mr. Downs moved to amend the same by inserting after the words "in any year" the words "after the year 1855."

He explained the reason why this amendment was offered. It was because in that year the census would be taken, and the legislature could make a more just appotionment after that than before.

Mr. Beatty said that the question last under discussion yesterday, was on a motion made by him for the previous question, and as he conceives that to have the preference, he presses it to the vote of the Convention.

Mr. Downs remarked, that it was not his intention to debate this question, but simply wanted it voted on.

Mr. Taylor trusts that the delegate from Lafourche will withdraw his motion:

Mr. Beatty: I insist on the motion.

Mr. Mayo remarked that he had yesterday introduced an amendment, to insert the word "white" between the words total and population, and "three-fifths of the slaves," and that when he made that motion it was clearly the first in order.

Mr. Saunders, temporarily in the Chair, decided that the motion for the previous question was the first in order.

Mr. Claiborne would certainly not vote for the previous question if the amendment of the delegate from Ouachita was the only one that was to be proposed to the substitute before the house.

Mr. Taylor accepts the amendment offered by the delegate from Ouachita, (Mr. Downs.)

The question was then put, "shall the main question be now put?" and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Chinn, Conrad of Jefferson, Dunn, Kenner, Labauve, Legendre, Mazureau, Preston, Pugh, St. Amand—11 yeas; and

Messrs. Aubert, Boudousque, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Claiborne, Culbertson, Derbes, Downs, Eustis, Garrett, Guion, Hudspeth, Humble, Ledoux, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Roman, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder—48 nays; so the motion was lost.

Mr. Downs then renewed his motion to insert the words "after the year 1855," and strike out the words "in any year."

Mr. Kenner inquired if that contemplates after the census to be taken in 1855.

Mr. Downs: Yes.

Mr. Kenner: Then, sir, I must oppose it, and call for the yeas and nays on the motion. It is not likely, the way we are going on with the constitution, that it will last over twenty years, and more than half the time will have elapsed before the senate is properly and fairly apportioned.

Mr. Preston then addressed the house as follows:

Mr. President: As the section is now amended I oppose its adoption; first, because population is made the basis of senatorial apportionment; and second, because the apportionment is to be postponed until 1856.

I yielded yesterday my vote in favor of the total population as the basis, against my judgment and feelings, but in the spirit of compromise, in a moment of excitement, in the hope that gentlemen from the great and growing west, would be reconciled to abandon the excessive representation in the senate which they had obtained in detail, thinking the basis of population most favorable to them. And if they refused that, by an apportionment in 1848 any inequality would be remedied, and exact justice done to all. But now I find the total population adopted as the basis, and the apportionment postponed to 1856.

I have, with others, expatiated so much on the absurdity, in determining political power, of placing slaves on an equality with the free, minors with majors, females with males, that I will not trouble the Convention with another word on the subject. And, although it would perhaps favor the city and portion of the State I represent, to include in the enumeration free colored persons and unnaturalized foreigners, of all countries and climes, for if you go into our

markets you will hear all languages and see all colors, I am opposed to it; for I see no more reason for enumerating them than for persisting on square miles, as some gentlemen still do with great zeal, as a basis of apportionment.

As to territory, it has no more to do with the basis of political power, than fire, air or water. These elements were given by a bountiful Creator for the support of his creatures, but while unappropriated to the destination of Providence, should have no influence upon man or government. If territory should have any influence, a farm appropriated to the objects of society, the support of man, the happiness of the fireside, should have more influence than uncultivated leagues of the richest land. But besides such land we have swamps of vast extent, fit only for the habitancy of noxious reptiles, and barren pine woods and prairies, which would scarcely afford a sustenance to the crows that fly over them. Some gentlemen propose to exclude these. It would require a corps of surveyors to apportion our senatorial representation.

In opposition to such schemes, I hold that white men above the age of minority, who are in reality the lords and masters of Louisiana, should be equally represented in the senate, as well as in the house of representatives in her government.

In the next place, I oppose the adoption of the section, because of the postponement of the apportionment until 1856. A pretext for adjourning the Convention from Jackson, was that we had not the statistical information there, necessary to make the apportionment. This was an admission not only that we must have a basis, and not fix the districts arbitrarily, but also that we should have certain information of the extent of the basis in each district. In a popular government we must have an equal representation apportioned on a certain basis. A leading object of calling this Convention was to equalize the representation in the senate; to abolish the arbitrary and unequal districts which existed, and apportion the senate equally, as I think, among the voters.

But in making the apportionment now, we have no certain information. No member knows the number of voters in any district. The census of 1840 is no criterion now, of population in the growing parishes. It was not originally made by State authority, and perhaps with little accuracy. I am certain the population of the senatorial district which I represent in this Convention, is double now, what it is represented to have been in 1840. The only criterion which approximates to certainty now, is the division of the State into congressional districts in 1842. We are bound to believe that the legislature divided the four districts as equally as possible, giving each that weight to which it was entitled by its population or voters. This is the last authorative proceeding upon which we ought to make our calculations. And if the apportionment is to be postponed until 1856, I for one must insist that it shall prevail, and that eight senators shall be allowed to each congressional district.

But it is in our power to have absolute certainty, by causing a census to be made immediately; and why should we perpetuate that which is uncertain, arbitrary and unjust, when certainty and equality is attainable? To end this two months' struggle for power without right, I would vote for the unjust apportionment which has been effected in detail, if you would permit it to be amended or righted in 1848. Like the just suitor who submits with cheerfulness to the injustice of a decision against him, because there is a speedy appeal to a tribunal where justice will be done. It is only the iniquity of perpetual inequality that the spirit of freemen cannot brook.

As we are now wandering in the dark with no compass to guide us, let us as soon as possible ascertain our population, if that is to be the basis, by a correct census; and then we will have justice and equality, with arithmetical certainty. The senate is the divisor, the population the dividend, and the quotient the number entitled to a senator, or senatorial district. And why should we postpone this arithmetical certainty of justice and equality? There can be no reason, except that some gentlemen think they have gained advantages by a struggle for power in the dark. And that is the very reason why an immediate apportionment should be made.

We have agreed that an apportionment of representation in the house, shall be made in 1848. What reason can there exist why an apportionment of the senate

should not be made at the same time, and with the same trouble and expense. I appeal to gentlemen from the west, where the population is rapidly increasing in consequence of the extent of their territory, the fertility of their soil and genial climate. It will continue to increase beyond their most sanguine anticipations. I rejoice to see it, and should rejoice to see their ascendancy in the power of the State, on account of their truly republican principles. But trust with confidence to that natural growth to give that portion of the State political power and ascendancy with right, and do not take it by might.

We have it in our power to do speedy justice in our own day and generation. Our great fallacy consists in overlooking the present, and providing only for the unborn millions. They will provide for themselves, far better than our limited views can provide for their improved condition. Ten years is a political life-time in this country. If you perpetuate an arbitrary apportionment based upon uncertainties, or rather upon certain inequality. Now, I care nothing about your apportionment in 1856, when in all probability, I, and many of us, shall lay cold beneath "a load of monumental clay." Let us struggle for right and justice and equality now, with the certainty that its attainment and enjoyment in our day, will be the best guarantee that our chilldren, growing up in our principles, will maintain the same rights and equality, when they ascend the stage of action, and we descend to our original clay.

Mr. M. Taylor said, he was placed in a singular attitude in relation to the substitute presented by him. Before the previous question was called by the delegate from Lafourche Interior (Mr. Beatty) he had said to the delegate from Ouachita (Mr. Downs,) that he had no particular objection to the time mentioned in his amendment; that he should be willing to see a vote taken on it, and that, although he preferred the time proposed in the substitute, he should still vote for the substitute if his (Mr. D.'s) amendment prevailed. At this stage of the proceedings the delegate from Lafourche Interior (Mr. Beatty) moved the previous question. If this had been sustained it would have cut off the amendment, and prevented any vote being taken on it. This I did not think right, said Mr. T. I was disposed to allow my proposition to be amended so as to meet the views of a majority of the house if possible. I thought the amendment of the delegate from Ouachita (Mr. D.) might be acceptable to a number of the members who had before voted against the proposition, and that it could not affect those who were in favor of the principle involved in it. If the vote had been taken directly, at that time on the amendment, I should in all probability, have voted against it. But when the previous question was moved, as I thought, not only to prevent debate, but to cut off the amendment, I thought it right to accept it, and with that view stated to the house, that if I had the right to do so, that I would accept. It was decided, however, that it was out of order, because the house was proceeding to vote on the call for the previous question. The house refused to order the previous question, and now (said Mr. T.) the amendment is before us, and I feel at liberty to vote against it, notwithstanding I was willing to accept it under the peculiar circumstances to which I have alluded; but as yet I have not decided how I shall vote on that question.

The delegate from Jefferson (Mr. Preston) says, that in the formation of senatorial districts, territory should go for nothing, and that the people alone ought to be considered. That, as a general principle, is undoubtedly true. But like all general principles, it is subject to particular exceptions. If this were a country which was fully peopled, I should at once concur with that gentleman in applying the principle to numbers. But such is not the fact. It is but a few years since the State was established. We are comparatively a new people; we have large districts containing the finest lands in the State, that have scarcely been explored. Others that are admirably adapted to the pursuits of husbandry are now in the course of settlement, and none has as yet a population in any degree equal to what it will in a few years contain. The experience of the past admonishes us of the necessity of being in some degree influenced at this time by the extent and character of territory in the formation of senatorial districts. When we look around us, we see on every side a happy population and smiling fields, when but

a few years ago we should have found a wilderness. The delegate from Jefferson has forgotten that we ought to look ahead, and from the past, anticipate the future. We are in a state of rapid progress.—Where we to-day find a solitude, to-morrow may be filled with teeming thousands. One portion of the country from the fertility of its soil and the facilities of internal communication, will attract thousands of emigrants, and another, from its sterility, or the want of other natural advantages, will either remain unoccupied, or be inhabited by a small and scattered population. In consequence of this peculiarity in our situation, we may with great propriety allow territory to influence us somewhat in apportioning the senatorial representation. In proportion as we advance in population this consideration will be entitled to less weight. In a very few years the fertile districts will be filled up, and the relative increase of population in the different country parishes will then be nearly equal. When this is the case, the apportionment ought to be based on population: and it is because I entertain these views that I think the question whether the first apportionment should be made in 1848 or in 1856 is of comparatively little importance.

It seems that some gentlemen labor under a misapprehension as to the time when the apportionment would be made if this amendment were adopted. They suppose it would be ten years after 1855. This is not the fact. The first census is to be made in 1847 and the second in 1855. The apportionment is to be made by the legislature at the session after the census is taken; that is, after that of 1847, in 1848, and again in 1856, after the census of 1855.

The question was then put on the amendment of Mr. Downs, and the yeas and nays being asked for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Claiborne, Covillion, Downs, Garrett, Humble, King, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St.Landry, Prudhomme, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester—36 yeas.

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Cénas, Chinn, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Guion, Hudspeth, Kenner, Labauve, Ledoux, Lewis, Mazureau, Preston, Pugh, Saunders, Sellers, Splane, Trist, Wadsworth and Winder voted in the negative; so the motion prevailed.

Mr. Mayo then insisted on his motion being in order—which was to insert the word "white" before the word population, and immediately thereafter three-fifths of the slaves.

Mr. Chinn opposes it, because it shuts out all chance of justice to the large parishes for at least ten or eleven years. He has asked in vain of this Convention to put his districts on an equality with the others, and unless they give one senator more to Plaquemines and St. Bernard; one senator to Jefferson, and one to West Baton Rouge and Iberville, more than they have, he shall feel bound to vote against the resolution.

Mr. Beatty remarked that he was anxious on yesterday to have stopped this debate, and had for that purpose moved the previous question.

From the result of the yeas and nays on the motion to adjourn, he was satisfied that the house was then prepared to sustain him. Some delay, however, unfortunately occurred in commencing the call of the yeas and nays on the previous question: the motion for adjournment was again renewed and prevailed by a large vote, and to-day, only eleven yeas have been found in a house of sixty, in favor of the previous question.

And what is the object of this refusal of the house to sustain to-day the previous question? Is it to postpone the new apportionment till 1855? Why, Mr. President, the very statement of the proposition suffices to show its utter injustice. We have already provided for taking a census in 1847, and then it is desired that the senate shall not be apportioned by that census, but that the present apportionment shall continue till 1855. Is not this an open confession that the present apportionment is unjust and unequal, and that this house is asked to perpetuate this injustice,

till a period at which a certain portion of the State believes she will have increased sufficiently in population to be able to retain the power which, up to that period, she will have unjustly usurped?

From the vote of this house, which has just been taken, he supposes that it is prepared to sustain this act of injustice. So let it be; but for my part, Mr. President, it shall never receive the sanction of my vote. I prefer that even a great injustice should be forced upon me, than to enter into a compromise by which I give my consent to an act of injustice, still though it be of less moment than that which it is sought to inflict on me by force. So long, then, as this postponement of the new apportionment shall be continued in the section, he, for one, should vote against it—even if the present unequal apportionment should be so modified as to make it less objectional to him than it now is.

Mr. PORTER cannot consent that the vote on this subject should be taken without emphatically protesting against its policy and injustice. The gentleman that had just taken his seat (Mr. Beatty) had indulged freely in abusing the apportionment in the senate, as established by this house; he has denounced it as monstrous, as unjust, and as odious. And what are the principles which that gentleman and those acting with him are now advocating? Sir, it is representation according to the total population, including slaves and free negroes, giving to each negro the same political power, and placing him on the same footing with a white man, as far as the basis of representation is concerned. Now, sir, could there be a more odious proposition? could any man conceive a more odious principle? And yet, sir, this principle is attempted to be thrust into our constitution.

Mr. President—Where are the reasons offered in favor of this measure? Sir, there has been no good reason offered—there is no precedent on record in any of the State governments. I hold in my hand the book of constitutions, and present it to gentlemen, and I state without fear of contradiction, that in the twenty-six constitutions contained in it, such a provision is not to be found. No, sir, it is to be found nowhere. It is a novelty. I will adopt the language of gentlemen on the other side, whilst discussing the question of representation in the lower house, but with much more truth. "This is a solecism in government;" "this is a new spectacle, not hitherto to be found in the history of our country;" this is really "a deed without a name." The idea of basing representation on a kind of population that has hitherto had no political rights guaranted to them, has at least the virtue of being a novelty. Now, sir, I would ask gentlemen who are in favor of giving this political influence to a favored part of the State, upon what principle do they desire to have their slaves represented, as persons, or as property? If as property only, why ask representation for this particular species of property; is not other taxable property equally entitled to representation? or is it because more of this species of property is found in a favored region, according to the white population, than is found in the other parts of the State; or is there more taxes paid on slaves than all other property, or are slaves more permanent or less subject to change than the lands of the country? Sir, from the report of the treasurer, now before me, which I will refer to, I find that the whole tax of the State is three hundred and forty-four thousand seven hundred and thirty-three dollars; and that the tax on slaves is only one hundred and sixty-four thousand nine hundred and forty-one dollars; on lands, the taxes are one hundred and thirty-seven thousand and nine dollars, slaves paying only twenty-eight thousand dollars more than is paid on lands; and according to the same report the following five parishes have not hitherto paid any land tax, because they were not, according to the laws of the United States, entitled to pay any, that is, the parish of Franklin, the parish of Claiborne, of Bossier, of Caddo, and of De Soto. Now, sir, it cannot be disputed, that when those parishes become liable to land tax, (and that will be the case at farthest in one or two years,) that the taxes on lands will amount to more than that on negroes. Now, sir, I repeat, why is it that slaves, as property, should be represented exclusively, and all other species of property be left unprotected.

It will at once be seen that a large amount of tax is raised from other property beside land and negroes, for those two

items only amount to about three hundred thousand dollars; but do gentlemen desire these slaves to be represented as *persons?* One gentleman insists that an amendment should be made, and that negroes be specifically named, for fear there should be some mistake or misunderstanding about the words *total population*, and that negroes might be left out. Now, sir, if this principle has to be forced on us, I would greatly prefer that they should be called by name—say *Tom*, *Dick* and *Harry*—and be permitted to come up to the *polls* and *vote*. It is stated on this floor, that the white population is decreasing in this favored region, and therefore I suppose it is desired to transfer the political power of that region to the slaves. If this has to be done, I wish them to have a choice in selecting their representatives, and I imagine there are many of them would be as apt to select some one else as their masters. But, sir, what is this great and crying injustice which has been committed in this apportionment of representation in the *senate?* It has been based on the size of the districts, on its *population*, and on its *taxes*, all duly considered and combined. And, sir, I believe it is the best basis, except the qualified voters, (which the gentlemen on the other side objected to.)

One word as to the inconsistency of the city delegation, in their votes on the subject of representation. Whilst this matter was under consideration, apportioning representation in the lower house, a proposition was made to base it on federal numbers. This principle would give to (say) five thousand negroes the political influence of three thousand white men; whilst the total population gives to each negro the same weight as to a white man. Where stood the city delegation, when the vote on federal numbers was taken? Sir, they stood where they ought to have been—voting in solid phalanx against it. It was then "anti-democratic, it was anti-republican," and every thing else that was wrong; but, sir, this was before a *coalition* was formed between the sugar interests on the coast and the city. I say, sir, before a coalition of opinion had been formed between them. Since then, the city delegation has generally voted *en masse;* with one honorable exception, I believe that gentleman has, on every occasion, voted a democratic vote. There has been one *green spot* on which to rest the *eye*. Yesterday, that faded from our *sight;* that gentleman went over, and voted with the entire delegation of the city, for total population, a much more objectionable principle than federal numbers. But, sir, I am rejoiced to hear that gentleman (Mr. Preston) give notice today, that he will ask a reconsideration of that vote, and that he will vote in favor of the basis being qualified electors. The gentleman shall not vote alone; mine shall stand recorded with him. I am truly glad that the gentleman has determined to change his vote. I did not wish to see his name on the *black list*. Sir, it seems strange that in a State, having so many slaves, and them not equally distributed over it, that they should be made the basis of our institutions. Sir, by reference to the tables before me, I see that there is a white population of only one hundred and fifty-three thousand and a fraction; and that there is of slaves, one hundred and sixty-five thousand, and of people of color, twenty-five thousand; making a large majority of slaves over the white population. Representation established on such a basis, must be unequal and unjust. I would be willing to meet gentlemen by way of compromise, on the principles above stated—territory, population and taxes. I do hope, sir, this new system will not be adopted.

Mr. M. Taylor said he disliked much to again trouble the house on the subject before it, but as he felt anxious that the substitute offered by him should pass, he wished, if possible, to remove from the minds of members the erroneous impressions under which he thought they were laboring.

What are we now attempting to do? Is it not to provide for the future and periodical apportionment of the senatorial representation among the different portions of the State, and to establish a rule in accordance with which that apportionment shall be made? Certainly it is. The original proposition provided that these apportionments should be made in 1848, in 1856, and every ten years thereafter. This proposition has been amended so that no apportionment will be made in 1848; and now because it is so amended, gentlemen who are in favor of providing for future apportionments, and establishing a basis on

which they shall be made, declare that they will vote against the substitute. They will do so, they say, because the present apportionment is unequal and unjust, and they cannot consent that it should remain unchanged for ten years. These gentlemen are in error. There is now no apportionment. The one to which they allude, and which they condemn so loudly, has been rejected by this house, and is as though it had never been. The house has already decided that no apportionment shall be made in 1848, and the question we are about to decide is this: Shall there be an apportionment of senators in 1856, and every ten years thereafter, in conformity to an established rule, or shall there be no future apportionment of them at all? If the house rejects the substitute as amended, (and it will be very likely to do so, if gentlemen vote against it, merely because the principle involved in it does not take effect at as early a day as they desire,) then we shall have no future apportionment of senators at all. For my own part, I think that the organization of the senate in our present constitution is radically defective, and that that particular department of the government stands more in need of reform than any other. The greatest defect in the organization of that body it is the object of this substitute to remedy. No matter how equal the apportionment we now make may be, if the districts be permanent, the representation will soon become unequal. Situated as we are, with a great variety of soil and climate, and with advantages in some sections of country for the establishment of manufactures, and in others for the growth of trade, this is inevitable. We must apportion the senatorial representation of the State. This cannot be avoided. The inequalities in the existing districts are too great. They must be removed. If the apportionment we agree on is unequal, and we adopt the substitute, the inequality can be corrected in ten years. If it be equal, it will afford a means for removing inequalities which may result hereafter from the varying progress of improvement and population in the different parts of the State.

As I said before, no apportionment is in existence. The one made was rejected. The whole subject is within the power of the house. We can, and I trust will, make another one, which shall be more equal. If we do that, the objection made by the friends of the original proposition will be entirely obviated. But however that may be, I must (said Mr. T.) remind gentlemen that if they are in favor of the principle of the substitute, they ought not to vote against it as amended, on the ground that the apportionment which we are to make may be unequal. They should now vote for it, and then unite with me to make an equal and fair apportionment. If such an one is not made, they can always vote against the substitute by voting against the whole section.

If we decide that representation in the senate shall be apportioned at stated periods, and adopt a proper rule for making the apportionments, we shall not only have established an important principle, but we shall get rid of many of the difficulties which embarrass us in making an apportionment at this time. As for myself (said Mr. T.) I shall be consistent in my course. I am in favor of the principle involved in the substitute, and shall vote for it as amended. Afterwards I shall vote in accordance with the dictates of my judgment, upon the various propositions relative to the present apportionment of the senate, with the single view of making it fair and equal. Upon this subject (said Mr. T.) I must confess I feel great anxiety, for I am persuaded that upon the reform effected in the senatorial branch of the legislature, will in a great degree depend the fate of the constitution itself.

The delegate from Caddo (Mr. Porter) alluded to the course of the New Orleans delegation on this subject, and charged them with inconsistency. I do not (said Mr. T.) agree with that gentleman in opinion. When the house was engaged in fixing on a basis for the apportionment of representatives in the house of representatives, they voted against federal numbers and total population, and in favor of the electoral basis. The house of representatives is the popular branch of the legislature, and the basis for apportioning representation in it, ought, beyond all doubt, to be the electors. The senate is a very different body. It is of an entirely different character, and is created for a very different object. It is designed to act as a check upon the lower house, in order to prevent

hasty and improper legislation, and any basis for the apportionment of representation in that branch, may with propriety be adopted which is calculated to secure the attainment of that object.

Mr. EUSTIS of New Orleans, rose and said,

Mr. President: I have been for nearly two months a silent observer of what has been passing in the Convention, on the subject of the legislative apportionment, and I should not deviate from the rule which I had prescribed to myself of not interfering in the discussion, except when the interests of New Orleans were directly to be affected, were it not apparent that we had reached a point beyond which we cannot advance, and from which we must retrograde if the motion of the honorable delegate from West Baton Rouge prevails. I beg of the Convention to look back on what is passed, and to take a lesson of wisdom from experience.

There is no one, either in the Convention or out of it, who will give himself the trouble to reflect for an instant, who will not be satisfied that no apportionment, at all satisfactory, can be made on the exclusively arbitrary plan the Convention has been for the last fortnight pursuing. We have been vacillating from error to error, from confusion to confusion, until finally, the result has been infinitely more unsatisfactory than either of the projets on your table; and in all probability, we should come to a better conclusion if the whole subject were considered as *res nova*. We are all anxious to advance, but an insurmountable obstacle is in our way. We have begun wrong. Let us repair the error. It is certain—and every body knows it who has witnessed our hitherto fruitless efforts—that no apportionment at all satisfactory can be made without a basis of representation. If the basis be fixed, the apportionment follows of itself, and can be made in twenty minutes. Can it be possible that in a Convention, composed of seventy-seven men chosen from among the people of this State, for their wisdom and experience, that the suggestions of the venerable delegate from St. Landry (Mr. Lewis) will be unheeded?

Mr. CHINN rose, and said that he would remove the difficulty, by withdrawing his motion. He by no means wished to retard the business of the Convention, nor did he apprehend, when he made it, that it would have any such effect; but as he perceives it may tend to produce such a result, he withdraws his motion, having every desire to facilitate and accelerate the public business.

Mr. EUSTIS expressed himself much gratified that the honorable delegate from West Baton Rouge had so promptly removed the difficulty in the way of our progress, and had but one word to add—one favor to ask—that the sense of the Convention be now taken on the vexed question of the basis. This once fixed, the apportionment can be adjusted in a manner which will be satisfactory to the Convention and the people. But this day ought not to pass—the Convention ought not to adjourn—without determining on the principle, without the establishment of which, the Convention cannot advance one step; all future labor and discussion will only lead to endless and senseless confusion.

Mr. WADSWORTH said that in contending that lower Louisiana was entitled to four more senators, he did not say they should be taken from the Red River parishes, but that New Orleans was entitled to five more senators than she was allowed; therefore in what she was restricted, the parishes contiguous to her ought to receive the benefit of, and that would only place them on a footing of equality.

Mr. CLAIBORNE withdrew his motion to reconsider, and moved the previous question.

The President then put the question, "shall the main question be adopted," and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Brent, Brumfield, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Guion, Kenner, King, Labauve, Legendre, M'Callop, Mazureau, Preston, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Winchester and Winder—44 yeas; and

Messrs. Brazeale, Burton, Cade, Garrett, Guion, Hudspeth, Lewis McRae, Mayo,

O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Madison, Stephens, Waddill, Wederstrandt and Wikoff—22 nays; so the motion prevailed.

And then on motion, the question was taken on the substitute offered by Mr. Taylor, and amended by the delegate from Ouachita, (Mr. Downs.) and resulted as follows:

Messrs. Aubert, Benjamin, Boudousquiè, Bourg, Brent, Cade, Carriere, Cénas, Chinn, Claiborne, Culbertson, Derbes, Downs, Eustis, Garcia, Garrett, Guion, Kenner, King, Labauve, McCallop, Mazureau, O'Bryan, Prudhomme, Pugh, Roman, Roselius, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Winchester and Winder—40 yeas; and

Messrs. Beatty, Brazeale, Brumfield, Burton, Conrad of Jefferson, Dunn, Hudspeth, Humble, Legendre, Lewis, McRae, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Saunders, Stephens, Waddill, Wadsworth, Wederstrandt and Wikoff—26 nays; so the substitute as amended, was adopted.

While the vote was being taken,

Mr. Chinn remarked that though he voted for the substitute, he should vote against the whole section, as injustice was done to his parish.

Mr. O'Bryan said he voted in the affirmative, because he regarded it as a compromise.

Mr. Peets could not see that any thing had been conceded, and therefore he should vote, nay.

Mr. Penn remarked that he could not and would not vote for any clause which contained such a principle as the one under consideration, viz: to take the slave population as a part of the basis of representation. He should not only vote against it now, but he would vote against any constitution containing that principle in it.

Mr. Wederstrandt said he could not vote for the proposition—the views expressed by the honorable delegate from St. Tammany, met his approbation, and consequently he would vote against the proposition. Total population was not his favorite basis. His favorite basis was that of *qualified electors*. Principle was his compass, and his determination was to adhere to principle.

Mr. Brazeale then moved the adoption of the section as amended.

Mr. Preston moved to amend the section by striking out "one," and inserting "two" senators for the parish of Jefferson.

Mr. Dunn expressed himself surprised at some of the arguments of the gentleman from New Orleans, (Mr. Benjamin) although he agreed with him in the main. He (Mr. D.) had voted against the apportionment, because he conceived it unjust. Why should we wait ten years before making a new apportionment, instead of taking the data we can get in two? If we do make another apportionment in 1848, it is very clear to his (Mr. D.'s) mind, that the senators to be taken off will be from the northwestern parishes instead of the Florida parishes. What sense, then, is there in establishing a rule, and at the same time saying that it shall be postponed for ten years, unless it be an arbitrary one? Is this the work we are to put forth to the world as the result of our deliberations?

The President called Mr. Dunn to order for irrelevancy.

Mr. Dunn—Pardon me, Mr. President; I am perfectly in order. I am endeavoring to show that we are bound in justice to allow two senators to the parish of Jefferson; and the question we are now considering is on the motion to that effect. He (Mr. D.) is satisfied she has not had justice done to her, nor has the second municipality, nor the district composed of West Baton Rouge and Iberville. But the question raised about taking one senator from the Florida parishes, to make up for the injustice done to those districts, he is positively opposed to; because that would be adding injustice to injustice; for those parishes have nothing which they are not clearly entitled to. He thinks there is an easier mode to remedy the evil. We have adopted the rule for our basis, and that is total population; now let us determine what shall be the number of senators—say thirty-two, thirty-four or thirty-eight? That done, appoint a committee to make a fair apportionment on that basis, and in twenty minutes the work can be accomplished. Any other mode by which we may proceed

will be arbitrary; it will create dissatisfaction, and will operate fatally against the ratification of the constitution itself. He therefore hopes it will be first determined what shall be the number of senators.

Mr. WADSWORTH said, by an increase of four, justice might be done to every parish.

Mr. READ remarked that on examining the tables, he found that Jefferson was not entitled to two senators, taking total population as the basis. After deducting one hundred and two thousand one hundred and ninety-five, for the city of New Orleans, it leaves a population of two hundred and thirty-eight thousand nine hundred and eighty-one, for the balance of the State. Now, deducting four senatorsfor New Orleans, it would leave thirty remaining, which would be about seven thousand as the average for each senator. Now, the population of Jefferson is about ten thousand, and if she be entitled to two senators, surely West Feliciana with ten thousand nine hundred and ten, East Feliciana with eleven thousand eight hundred and fifty-three, St. John the Baptist and St. Charles with ten thonsand two hundred and seventy-six, are equally entitled to two senators.

Mr. CONRAD contended that Mr. Dunn was in error, in saying that no rule had been adhered to in the apportionment; for the rule had been strictly observed in all the river parishes, in the Lafourche and Attakapas districts, and even as far as Point Coupée, and had not been departed from until we came to the Florida parishes; and when we got into the north-western parishes, all rules whatever had been departed from.

Mr. BRENT moved an adjournment, and the Convention adjourned until to-morrow at 10 o'clock.

[In the yeas and nays, in the report of debates of Tuesday last, April 1—upon Mr. Lewis' amendment to add to the words "total population" "and territory equally," as the basis of apportionment for the senate—the name of the mover of the amendment, Mr. LEWIS, was placed, by error, among the nays. It should have been among the yeas.—KERR, Rep.]

THURSDAY, April 3, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

The following resolutions of Mr. Beatty which were ordered yesterday to lie on the table, were taken up.

"*Resolved*, That all motions to lay on the table subject to call, be decided without debate."

"*Resolved*, That when the previous question be asked and be maintained by the Convention, the vote shall be taken on all the amendments that may be offered, without debate."

Mr. BEATTY said he did not design to make a speech and would merely remark, that experience had fully tested the necessity for these rules. It was impossible to make any progress unless they were adopted.

Mr. DOWNS proposed to amend, by inserting "subject to call."

Mr. BEATTY objected to this amendment. It was adopted.

Mr. RATLIFF and C. M. CONRAD opposed these rules, on the ground that they were useless, and would not effect the purpose designed. They were adopted.

ORDER OF THE DAY.

SEC. 10. Art. 2.—Apportionment of the Senate.

The question pending at the adjournment yesterday, was the motion to allow one senator to the parish of Jefferson.

Mr. BRENT said that the proposition before the house, was to give an additional senator to the parish of Jefferson. His course in relation to this matter would depend materially upon the action taken in relation to the section under debate. He was willing to concede one senator more to lower Louisiana, provided the apportionment in the section was not disturbed. Or, he was willing to take one senator from the north-west, at any point the Convention should think just and proper, and not increase the number already apportioned. He did not rise so much to debate the individual proposition immediately before the house, as for the purpose of explaining a few facts in relation to the section rejected by this body. We have heard a great deal about the inequity of this apportionment; it has been denounced in unmeasured language, and we have been told, over and over again, that it is without a redeeming trait—a kind of gun-powder plot concocted in the north-west, designed to devastate the whole of lower Louisiana, and to involve it in one wide-spread and general ruin. It

is easy to make assertions. Gentlemen can assert any thing; it costs nothing. But do they furnish us with proof to substantiate these assertions? Have they shown by substantial proof that this apportionment is unjust and iniquitous, as has so freely been charged. I have not (said Mr. Brent) seen any such proofs. The two delegates from New Orleans, who addressed the Convention yesterday, descanted upon the flagitious injustice that had been visited upon the devoted head of New Orleans. This was the old theme, the old song, and there was as much foundation for the complaints of the New Orleans delegation on the present occasion as in past instances. What injustice, I would ask, has been done to the city of New Orleans? Where is the oppression so vehemently complained of? has any injustice been done to New Orleans in her representation to the lower house? is there any injustice in the apportionment there? I understand not! She is admitted to a perfect equality in the popular branch, although the necessity and propriety of restricting her was admitted by her own delegates, notwithstanding the explicit admission emanating from one of her delegates. Yet no restriction has been placed upon her—she is admitted to a perfect equality with the balance of the State? Is there here any tyranny? any injustice? Surely not? Let us now see how the matter of complaint stands in relation to the apportionment under debate. The section under consideration allows four senators to the city, and distributes them among the three municipalities. Is there any injustice in this? has she not been awarded all that she was justly entitled to? has she not received what she asked for, and there is no danger that she will suffer from the want of asking. If she has got all she asked for, can they object that this apportionment has not conceded enough? Where then is the injustice, in the distribution? Why, that was made at the instance of one of her own delegates. If there was any injustice in it, any oppression, it originated with the city. It was not concocted in the fourth district, but it was at the instance of one of the representatives of the city.

But we are told that the city has no representation in the house of representatives to represent the whole city, by reason of its division into districts, and that this principle is applied to the senate. Will not four senators represent the city with more truth and fidelity if taken from the local districts than if elected by general ticket? Will they not reflect more immediately the will of the constituent body? At any rate the same objection might have been urged against the division of the county of Attakapas, and some other sections that have been divided into several senatorial districts. The county of Attakapas has been divided into two senatorial districts—the parishes of St. Mary and St. Martin, entitled to two senators; and the parishes of Lafayette and Vermillion entitled to one senator. The same thing may be said of the county of Rapides, and will it be pretended that they have no representation in the senate because they are not represented as an unit. It might as well be said that there is no representation for the whole State of Louisiana! This is the first time that I have heard that because the representatives are chosen by local districts, and not by general ticket throughout the State, they are not to be considered as speaking the voice of the people of the whole State!

But, Mr. President, an allusion has been made to the fact of the removal of the seat of government from the city. It is said that a spirit of proscription is exhibited towards New Orleans. I voted for the removal o the seat of government, but I never conceived that such a construction could be placed upon it. I thought that measure important—that it was called for by the soundest considerations of public policy—I think so still. The seat of government should not be held amid the hurly burly of a great commercial city. This opinion has been entertained by the greatest statesmen. And we find abundant precedent in the example set us by our sister cities. In the State of New York, the seat of government is not placed in her large commercial metropolis, but in the interior, at Albany. In Pennsylvania, the seat of government is not at Philadelphia, but at Harrisburg. The seat of the federal government has not been placed in a large commercial city, but in a barren heath where a large commercial city can never exist. It was not to proscribe the city of New Orleans that the seat of government has

been removed, but because it was deemed more prudent, more wise, to remove it beyond the influence that surround a large city. I cannot conceive how that measure can reasonably give any just cause of umbrage to the citizens of New Orleans. Suppose the Convention were to provide that the seat of government should be located within the radius of twenty miles of the centre of the State, would that be a slur upon any portion of the State not embraced within that radius? I apprehend not! The clamor that has been raised has no just foundation whatever.

We were told yesterday that if the section was adopted, and if the distribution of the four senators were insisted upon, the city of New Orleans would vote en masse against the new constitution. This threat has taken the place of the threat of revolution, which at an early stage of our proceedings, was so frequently repeated. Gentlemen have become more peaceable—they only threaten us with the rejection of our labors. As to its being rejected, the wish is farther to the thought. But if it is to be rejected, it will not be upon that ground. If the city is to be placed in a hostile attitude upon the question of its approval or rejection —if a line of demarkation is to be drawn between the city and country upon that issue, it will be found that the city of New Orleans does not yet occupy the same position that Richelieu held to France. It will be found that New Orleans is not the State! The same causes that may induce the city to coalesce will induce the country to coalesce. What will the five thousand voters of the city do againts the twenty thousand voters of the country? I hope that the gentlemen will forego their threat of rejection of the constitution by the city.

But, Mr. President, let us look at some facts connected with the present apportionment. A great outcry has been raised against it. The public press has denounced it as the concentration of all that is iniquitous. The development of a few facts will show that the political power has been divided with remarkable accuracy, when it is considered that we have proceeded without any fixed basis in making the apportionment. The house has since decided upon a basis. They have taken for a basis the total population. Let us take that basis and examine and see whether justice has not been done to what is called lower Louisiana. Let us see whether justice has not been meted out in the aggregate. It may be true that some of the parishes may not have received their exact proportion. But it will be found—taking the apportionment as a whole upon a reference to the statistics before us—that almost exact justice has been done to every section of the State—as near an approach to justice as was possible. To the city of New Orleans four senators have been apportioned. It is conceded all around that the city should not be allowed a full representation under any basis that may be established. No one disputes that point. The city has been allowed her full representation in the popular branch, and by general assent it has been deemed proper to place the restriction upon her in the senate. The city had, according to the census, a population of ninety-eight thousand three hundred and twenty-four souls, exclusive of that portion of the parish of Orleans on the west bank. If we deduct ninety-eight thousand three hundred and twenty-four from the first and second congressional districts—and I make the deduction from these congressional districts rather than from the remaining portion of the State out of the city, because we have heard so much clamor raised that certain districts were favored over other districts—we find the remainder to be sixty-thousand two hundred and ninety-three souls. I would remark that if we deduct the population of the city from the total population of the whole State and give the city four senators, and then divide the remaining portion by thirty, to ascertain the representative number to entitle a district to a senator, it will be seen that eight thousand is the representative number:—After deducting the city of New Orleans from the first and second congressional districts, their population, sixty thousand two hundred and ninety-three, would entitle them, assuming eight thousand as the divisor, they to seven senators. The apportionment gives them that number. They are entitled to it, and they have it. Let us see how the apportionment stands in the third congressional district. The population of that district is placed at ninety-four thousand five hundred and twenty. They are entitled to eleven

senators, and they have them. Is there any thing unjust in allowing them that representation? It is demonstrated that they are entitled to it upon the basis that has since been adopted. We now come to the fourth congressional district. We find that her population is ninety-one thousand two hundred and forty-one. She is not strictly speaking entitled to eleven senators, but she is entitled to ten, and has a fraction remaining of three thousand two hundred and forty-one. This fraction may not be large enough to entitle her to another senator. Well then take it away and there will be as exact a distribution of political power, as far as the State goes, as is possible. Add the senator taken away to lower Louisiana, and a perfect equality in conformity with the basis is reached. This equality might be attained by retaining the senator in the fourth district and adding one senator more to the second congressional district. But it would be fairer to take that senator from the fourth district and give him to the second district. That would be the most proper course.

But it may be said that we should not deduct the population of the city from the first and second congressional districts. That these districts are entitled to the excess of population after the allotment of the four senators to the city. I object to this. It is an exception from the rule that the city should be restricted in one branch of the legislature that is neither just nor safe. If the excess of population in the city is to be spread over the contiguous parishes, it will have a similar effect—it would be just as well, and infinitely more fair—to take off the restriction, and let the city have directly the full representation to which she is entitled. If the city can claim, and the balance of the State concede to her the right to have that representation, it would be better to give it to her than that it should enure to the exclusive benefit of the surrounding country. If the exception is to be carried out and the city is not to have her full representation in the senate, then the excess over and above the representation allowed her in that branch of the legislature should not be taken into consideration at all, but the apportionment in the country should be made upon the principle of perfect equality. It should be borne in mind that a large minority of this body think that the apportionment ought to be made upon the basis of qualified electors. If we compare the first and second congressional districts in reference to the basis of qualified electors, we find (taking the vote at the last presidential election as our guide,) that the first and second congressional districts gave ten thousand votes, the third and fourth congressional districts sixteen thousand votes, showing an excess of six thousand votes in favor of the latter districts.—Whether one consider then population or electors, it is apparent that substantial justice has been meted out. In some particular instances, some parishes may have obtained greater representation than they were entitled to; but others in the same section have obtained less, and therefore impartial justice in reference to the various sections has been done. It is impossible to obtain a perfect equality in the senatorial representation of the several parishes. But the political power has been divided with remarkable equality—with as much equality as was attainable. I will concur that one senator be taken from the north-west and transferred to lower Louisiana, if by that means the question can be definitely settled.

Mr. Benjamin moved to postpone for the present the motion under discussion, in order to examine what portion of the State shall be curtailed of a part of their senatorial representation. Adopted.

Mr. Benjamin moved to limit the number of senators to thirty-two.

Mr. Porter proposed thirty-three. If the number were fixed at thirty-two (said Mr. Porter) it would facilitate the settlement of this question. The north-western parishes were willing to relinquish one senator for the purpose of effecting a compromise, and that was all that they ought to be asked to concede. Thirty-three was one third of the number allotted to the house of representatives.

Mr. Saunders hoped that the motion to place the number at thirty-three would not prevail. In expressing this hope he would beg leave to call the attention of the Convention to a few facts. After a careful examination of the whole subject, his mind had come to a definite conclusion, based upon data which he would submit, in connection with a few remarks, to the consid-

eration of the house. If the number is fixed at thirty-two, there will be no difficulty. The population of the State, excluding the city, was two hundred and fifty thousand. He would not enter into the calculations submitted by the delegate from Rapides, (Mr. Brent) because they were not applicable. Taking thirty-two as the number of senators, and deducting four senators for the city, twenty-eight would remain for the country. That would give nine thousand as the representative number; and assuming the whole population as the basis, the dividend nine thousand would give to the country parishes twenty-eight senators.

I have (said Mr. Saunders) in the next place divided the State into two classes; into the parishes, the representation of which is contested, and the parishes in which there is no contest. Those that are not contested, may be assumed as a fair basis for those that are contested. The Florida district, the Rapides district, the Attakapas district, and the Opelousas district, are not contested. The parishes extending from New Orleans to Iberville, and which have a similarity of interests, have three senators; to wit, St. Charles and St. John Baptist, one senator; St. James and Ascension two senators. St. James and Ascension are deficient, but with the fraction from St. Charles and St. John Baptist, they are entitled to two senators. The Florida parishes have a total population of forty-three thousand; they are allowed a representative for forty-five thousand; the difference between that representation and what they are entitled to is quite insignificant. The same results are found in the Lafourche district, the St. Landry district and the Attakapas district, with the exception in the latter, that Lafayette and Vermillion are somewhat deficient to be entitled to a senator, but the difference is so small as to be immaterial. The district of Avoyelles is deficient, but then the district of Rapides has more than the requisite number, and her excess makes up for the deficiency of Avoyelles. Madison and Concordia are entitled to one senator, and have over and above a fraction. It has been allowed them. We now come to the contested districts. The parishes of Plaquemines and St. Bernard, with that portion of the parish of Orleans on the west bank, have a total population of eleven thousand nine hundred and eighty-nine; they are entitled to one senator, and have a fraction of two thousand nine hundred and eighty-nine; too small a fraction to entitle them to another senator. It must be borne in mind that the parish of Plaquemines, with a total population of four thousand eight hundred and eighty-one, has been allowed three representatives in the popular branch, which she is not entitled to. That should put to rest all opposition on her part to the apportionment. The parish of Jefferson has a total population of ten thousand four hundred and seventy; that entitles her to one senator, and she has a fraction of one thousand four hundred and seventy. This is not worth cavilling about. The county of Iberville has a surplus of about four thousand seven hundred over and above the one senator allowed, and if any thing were given, it would seem that that district has the best claims to an increase. The parish of West Baton Rouge has increased greatly in population; a large stream of population has for some time been setting towards that parish. But I am in favor of maintaining the apportionment, even there as it is. We now come to the north-western parishes, to wit: Natchitoches, Ouachita, Sabine, De Soto, Caldwell, Caddo, Claiborne, Bossier, Morehouse, Union, Catahoula, Franklin and Jackson; thirteen parishes containing thirty-nine thousand two hundred and twenty-nine souls. They are allowed by the apportionment seven senators, when they in fact are entitled to but four, with a fraction of three thousand two hundred and twenty-nine. Strictly speaking, we would be authorized to withdraw three senators. But we only insist upon withdrawing two; we concede one more senator than they can lay claim to, by the basis of their population when compared with the population of the other parishes of the State. We give nothing to the parish of Jefferson, and nothing to the county of Iberville, although both have an excess of population over and above the one senator allotted to them respectively. Is there any thing unfair in the distribution of the representation to the north-western parishes, or any thing that can give them proper cause of complaint? But it is urged that they have increased in population since 1840. We give them one senator more

than they are entitled to, taking the census of 1840 as our guide, and should not that satisfy them? But, if they have increased in population, have not the other parishes of the State likewise increased their population? Population has been taken as the basis, and assuming the census of 1840 as indicating the population of the several parishes, it is demonstrable that the representation has been made with remarkable fairness, with the exception of the north-western parishes. They are entitled to four senators; we have given them seven. We do not propose to take away three senators, but to take away two. With that correction, we reduce the number of senators to thirty-two, and the distribution is then as equal as it possibly can be made.

Mr. Porter had one remark to make; the parishes of De Soto, Caddo, Sabine, Bossier and Claiborne, had increased very largely in population. The census of 1840 afforded no criterion of their population. They had just come into existence. The parishes of Caddo and De Soto had doubled. The first land sales took place in 1839 and 1840. It was doing these parishes great injustice to assume the census of 1840 as the basis of distribution. He was willing however, in order to settle the controversy, to yield a good deal to the spirit of compromise. He would consent to relinquish one senator. That was meeting the gentleman half way, and he conceived that that ought to be a sufficient concession.

Mr. Saunders: I am willing to meet the gentleman thus far. I am influenced alone by the lights before me, without favor or prejudice to this or that section of the country. I am willing that it be provided that a census be taken next year, and upon that census the apportionment shall be made by the legislature. The house have determined that instead of indivisible districts, there shall be apportionments at stated periods, and upon these apportionments the senatorial representation shall be made. The proposition of the delegate from Lafourche, (Mr. Taylor) provided that the apportionment to fix the senatorial representation should be made at the same time as the apportionment for the house of representatives. The delegate from Ouachita (Mr. Downs) offered an amendment that the repartition for the senate, instead of being made in 1848, should be postponed until 1855. If the north-western parishes received by this apportionment two senators more than they were entitled to, it is very evident that it is to their interest to postpone the apportionment by the legislature until a remote period; for in the mean while they will have the additional political power confered upon them by two senators, and will have a further time for the increase of their populations. Should the withdrawal of the two senators produce an inequality, which I do not believe, its effects will be but temporary, if the delegate from Ouachita (Mr. Downs) will consent to move a reconsideration of his motion to postpone the next apportionment until 1855, and will propose to reinstate 1848. I will repeat, that I consider the number of senators allowed to the north-western parishes, is not in relative proportion to the number allowed to the other districts, and if the motion of the delegate from New Orleans (Mr. Benjamin) prevails, I will propose that the thirteen parishes that I have enumerated, have five senators instead of seven. If my proposition prevails, I will then suggest to the Convention the propriety of providing that the four senators allowed to the city be elected by general ticket.

Mr. Chinn considered that the greatest sacrifice fell upon that section of the country which he represented. He would submit to th injustice, provided that an early apportionment should be made by the legislature. If that apportionment were fixed for 1848, he would vote for the present temporary distribution.

Mr. Downs was sorry to see a question which was considered as nearly settled, as being farther from being settled than it was a week ago. When we came here yesterday—at least he could say for himself, that he was influenced by a sincere desire to do all in his power to effect a compromise; it was to make some concessions. He voted for a proposition that under other circumstances he never would have voted for, the basis of total population, which had been rejected two or three times. He was prepared to make some concession—to reduce the senatorial representation in the north-western parishes one, or to add one to what was called lower Louisiana. He was sorry to say that in-

stead of being met by the same spirit of compromise, the arguments that had been adduced, exacted concessions all on one side. If we are to be conquered, all that I ask of the gentlemen who oppose us, is, that we may be placed back where we stood yesterday, where we may fight it out on equal grounds. The delegate from Feliciana (Mr. Saunders) should remember that although the reduction may commence with the north-western parishes, it may not end with them. Those who are so much in favor of restricting the north-west, when they have carried that point, may next turn their attention to Florida. If the excess of population in the city, after allowing her four senators, is to be transfered to the parishes in her immediate vicinity; if the exclusion of the city of New Orleans from a full representation in the senate is not to innure to the benefit of the whole State, it would be much better to allow the city to retain her undue proportion of political power. There is some identity of interest between the country parishes generally, and the city of New Orleans. But between the interior parishes and the parishes that surround New Orleans, there is no identity of interest. As a matter of necessity, as the only alternative, I will say, and perhaps others will say, give to New Orleans her entire representation if the excess is to be transfered to the neighboring parishes.

Gentlemen tell us that they are governed by the census of 1840. I consider it no criterion, and to illustrate in a single point how imperfect and deficient it is, I will call attention to the fact which is clearly shown of the increase of slave population since 1840, in some parishes, and the decrease of that population in other parishes. In the city of New Orleans, the increase in white population has been great. We find that her slave population in 1840 was twenty-one thousand seven hundred and forty-three. By the tax roll of 1843 it is but seven thousand four hundred and sixty-three. The slave population of Union in 1840 was five hundred and sixty-three. In 1843, according to the tax roll, it is one thousand one hundred and sixty-eight; more than double. The slave population in Ouachita in 1840, before Morehouse and Jackson were taken off, was two thousand four hundred and thirty-eight. In 1843 the population of Ouachita according to the tax list, is two thousand eight hundred and forty-eight. But I may be told that the old parishes have likewise increased. From the same data it is shown there is no increase; many of them have fallen off. I have already show a large increase in two parishes in my district. We will see how the rule applies to lower Louisiana. In 1840 the slave population of Ascension was four thousand five hundred and fifty-three. In 1843, five thousand three hundred, a small increase. In Assumption, the slave population in 1840 was two thousand nine hundred and eighty-eight; in 1843, three thousand two hundred and twenty-eight. In East Baton Rouge, the slave population in 1840 was four thousand two hundred and six; in 1843, four thousand five hundred and seventy-seven; an increase of about three hundred. In West Baton Rouge in 1840, three thousand one hundred and forty-seven; in 1843, three thousand eight hundred and twenty-six. The increase in slaves had been nearly double in the parishes of Ouachita and Union, and it was fair to infer that the white population had increased three fold. The attempt to withdraw two senators from the north-west, and to postpone the apportionment for ten years, was to catch that section of country in a trap, and he could not see how gentlemen could hold their countenances while making such a proposition. If these parishes were to be deprived of two senators, he hoped at least that the resolution of yesterday would be rescinded, and that things would be placed in their former state. The population of Ouachita and Caldwell in 1840 was five thousand six hundred and eighty-three; if we add the increase of its slaves and white population, it would have eight thousand eight hundred and two. According to the calculation of the delegate from Rapides (Mr. Brent) it has been shown that eight hundred is the number for a senatorial representation. It is evident that these two parishes are entitled to one senator, and that they have over and above a fraction. That delegate has shown triumphantly, that the apportionment had been made with equality and uniformity in reference to every section of the State, as far as these were attainable. It would be better

to let the old apportionment stand, unequal as it is, until a new census of the State could be taken, rather than to make an apportionment which would do greater injustice, and which would continue for ten years—that a portion of the State should be disfranchised for ten years. Is this what is called justice? Do gentlemen understand concession to mean that we must give up every thing?

Another preposterous and absurd idea is, the conflict supposed to exist between the northern and southern portions of the State. Certain individuals may imagine that it may promote certain purposes, but I defy any one to point out a single instance where there is any adverse or conflicting interest between those sections. It is not expected that our legislature will impose a bounty in favor of the interests of either, but whatever promotes one, necessarily promotes the other. As a cotton planter, I have never been aware of any conflict; I have never felt it. There is no disposition nor feeling adverse to the prosperity of the sugar planters; they consume but a small amount of sugar, but they are well aware that whatever is calculated to lessen the cultivation of cotton is promotive of their interests. There is no adverse interests between those two classes. Every cotton planter feels desirous that the cultivation of sugar should be productive, because it draws away a large amount of capital which would otherwise be invested in the cultivation of cotton. Why should there be any difference or conflict between the producer of cotton, and the producer of sugar? Why excite sectional differences unless it be to promote local or party views which ought not to enter into our deliberations. They ought not to be alluded to or insisted upon. If it be true, as has been assumed, that there is a line of distinction and contrariety of interest between them, it is constantly changing. The whole State may cultivate sugar. The upper portion is as susceptible of that cultivation now as the lower portion was twenty years ago.

We are all citizens of the same State, interested in the same common cause, having the same kind of property, and navigating the same rivers. Where then is the necessity for these invidious distinctions? If all the wealth of the State was centered in the sugar region—if all the slaves were there, there might be some cause of apprehension. But this is not so; the largest and wealthiest parishes are engaged in the cultivation of cotton—the largest amount of capital is invested in that culture: for example, the parishes of Rapides and Concordia. I protest against such distinctions—I protest against arraying one portion of the country against another. Perhaps this idea may have grown out of the proceedings of another Convention where such feeling prevailed. There was, however, some peculiar reasons which engendered them there, that do not exist here. In one portion of the State of Virginia, the slave population almost exclusively predominate—in another portion, in the mountains, there are comparatively, but few slaves. Natural causes, then, promoted these distinctions. But in Louisiana we have nothing of that kind. Slaves are found all over the State.—Why attempt to create divisions between poor and rich? Why distinguish the occupants upon poor lands from the occupants upon rich lands? They are all citizens alike, and doubtless feel all equally interested in the prosperity and advancement of the State!

I have asserted that there has been a decrease in the slave population in many of the old parishes. To recur to that part of the subject: The parish of St. Bernard in 1840, had two thousand one hundred and thirty-seven; in 1843, but one thousand five hundred and twenty- St. Charles had in 1840, three thousand seven hundred and twenty-two; in 1843, three thousand seven hundred and forty-five. St. James in 1840 had five thousand seven hundred and eleven; in 1843, five thousand seven hundred and forty-nine. Jefferson in 1840, four thousand nine hundred and eighty-six; in 1843, three thousand nine hundred and sixty-four—a falling off of one thousand. St. John the Baptist in 1840, three thousand four hundred and forty-four; in 1843, three thousand four hundred and ninety-nine. St. Landry in 1840, seven thousand one hundred and twenty-nine; in 1843, seven thousand eight hundred and forty-three. St. Martin had in 1840, four thousand six hundred and forty; in 1843 she had five thousand two hundred and forty-two.

I have already alluded to the remarkable decrease of slave population in the city

of New Orleans. In West Baton Rouge, notwithstanding all that we have been told about the great increase in population, we find that there has only been an increase in the slave population of six hundred and ninety-nine.

How can it be expected, that with a rule so erroneous as the census of 1840, that justice can be meted out to the north-west? If the withdrawal of two senators from that section be considered justice, I am at a loss to know what justice is! I am willing to concede much in order to settle this controversy, and if the motion of the delegate from Caddo prevails, the difficulty can be settled with the assent of all. If that motion should fail, I will then ask for the reconsideration of the vote assuming total population as the basis for senatorial representation, I will ask it as an act of justice from the majority, to place us back where we were before we made that concession, and that we may take a fair start.

Mr. Voorhies did not wish to detain the Convention further than to make a few remarks; to state some reasons why he thought the number of senators ought to be placed at thirty-two. He was always in favor of that number. From all the data we possessed, it appeared that with that number we could arrive at once to a just and equal apportionment. We were under the necessity of assuming, as a basis, the census of 1840. We had no other, and according to that basis, and in reference to the other senatorial districts, he could see no injustice in withdrawing one senator from the old Natchitoches district, and one from the old Ouachita district.

The delegate from Ouachita (Mr. Downs) complains that great injustice has been done to his district. The proposition of the delegate from Assumption, (Mr. Taylor) provided that the next apportionment should be made in 1848, affording an early opportunity for a redress of any wrong that may have been committed in the present repartition. Why did the delegate from Ouachita object to that and propose 1855?

Mr. Downs: It was distinctly understood that the apportionment should remain as it was.

Mr. Voorhies: The gentleman complains that there is injustice done to his section of the State. If this be so, there is an effectual mode to prevent this injustice within a short period. Let the gentleman vote for the reconsideration of his own motion, fixing the re-apportionment in 1855, and bring it back to 1848. The present apportionment will be but temporary, and cannot produce any injury within two years. I have made a rough calculation in order to test the uniformity of that apportionment, and assuming eight thousand five hundred as the representative number, I find that all the various districts are entitled to their representation, with the exception of Ouachita and Natchitoches. I do not vouch for its accuracy, but here are its results. The parishes of Plaquemines, St. Bernard, and that portion of the parish of Orleans on the right bank have, according to the census of 1840, a population of eleven thousand nine hundred and eighty-nine. These parishes are clearly entitled to one senator, and have a fraction of three thousand four hundred and eighty-nine. St. Charles and St. John the Baptist have together a population of ten thousand four hundred and seventy-six, and they are entitled to one senator. The parish of Jefferson has a population of ten thousand four hundred and seventy; it is allowed one senator, and has remaining only a small fraction. I do not consider it entitled to more than one senator. Ascension and St. James have a population of fifteen thousand four hundred and ninety-nine; they are allowed two senators. There is a difficulty, but it is so small as to be scarcely worthy of consideration; and besides, it is more than compensated by the excess of population in St. Charles and St. John the Baptist. Assumption, Lafourche Interior and Terrebonne have a population of eighteen thousand eight hundred and sixty-one; they are entitled to their two senators, and have besides a fraction of eight hundred and sixty-one. Iberville and West Baton Rouge have a population of ten thousand and thirty-three; they are allowed but one senator, and the excess is transferred to the parish of Point Coupée, having a population of seven thousand eight hundred and ninety-eight, which is allowed one senator. The three parishes combined are entitled to two senators, but they are entitled to no more; they have them. East Feliciana has a population of eleven thousand eight hundred and fifty-three; she has been allowed

one senator, and she has a fraction remaining. West Feliciana has a population o ten thousand nine hundred and ten; she also is allowed one senator, and has over one fraction. East Baton Rouge has a population of eight thousand one hundred and thirty-eight; she has one senator allotted to her, and is nearly entitled to it. St. Helena, Washington, St. Tammany and Livingston have not the precise number to entitle them to the representation which they have received, but with the excess from East and West Feliciana, which is in the same section of country, they reach the necessary number, and I am willing to concede it to them. Avoyelles and Rapides are, together, entitled to two senators; the excess of population in the one supplying the deficiency of population in the other. St Martin has a population of eight thousand six hundred and seventy-four; she is entitled to one senator, and has a small fraction. St. Mary has a population of eight thousand nine hundred and fifty; she is entitled to one senator, and has a fraction of four hundred and fifty. The surplus may be transferred to the adjoining parishes of Vermillion and Lafayette, which are allowed one senator. St. Landry and Calcasieu have a population of seventeen thousand two hundred and eighty nine, and are entitled to two senators. Natchitoches and Sabine have a population of fourteen thousand three hundred and fifty, and in references to the parishes that we have examined, they are not entitled to two senators. One should be withdrawn from that district, and one from the Ouachita district, which is also deficient in population. This is shown by the statistics before us. Why increase the number of senators to thirty-four? Why give two districts two more senators than they are entitled to? Surely we are not to scramble after political power. If there is any injustice, it will be easy to rectify it by a reapportionment in 1848. The only principle by which I am governed, said Mr. Voorhies, is to do equal and impartial justice to all sections of the State. I have never been in that section of the couatry, and am governed by the data before me. The apportionment made under it is as correct as the nature of the case will admit, and if there be any wrong done, it cannot but be temporary.

Mr. M. Taylor trusted that the house would proceed to the final decision of this question. He conceived that the point at issue was not whether the number of senators should be thirty-two or thirty-three, but whether two more senators should be allowed to two districts than they appeared to be entitled to. If the question was, however, to be decided uaon the motion to reduce the number of senatois to thirty-two, he would vote in favor of that reduction, for he was in favor of that number; but he apprehended, that upon determining that question in the affirmative, it would only bring us back to the real difficulty, which was the withdrawal of a senator from the Natchitoches district, and one from the Ouachita district. He concurred fully in what was said as to the relative weight of the various sections of the State by the gentleman from Feliciana, (Mr Saunders.) He had listened to the remarks of the delegate from Rapides (Mr. Brent) with some attention. In reference to the calculations of that delegate, I have not (said Mr. Taylor) taken the trouble to examine them; but I have little doubt that they are correct. I think the delegate should not have laid off the State into such large districts. When I proposed to divide the State into eight districts, the delegate from Rapides protested against it; and now I find, that for the purpose of securing a certain number of senators to a particular portion of the State, he is disposed to go further than I, who went the furthest. He proposes four districts. I did not concur with that gentleman as to the small districts that he advocated as his favorite system. But I disagree as far from him as to the formation of such large districts as those which he seems now to favor. Instead of eight districts as I proposed, he divides the State into four. The distribution might be very equal into four parts, and yet the distribution between these districts themselves—between the parishes of which each were composed, be quite unequal.

From the statistical detail presented by the delegate from Feliciana, we should be induced, if the motion prevailed, to reduce the number to thirty-two, to take the two senators from the north-west. Instead of a division into four parts, the delegate from Feliciana took the pains of making smal-

ler divisions, and following out his plan, we find that if we group together the Attakapas and Opelousas parishes, they contain an aggregate population of from between forty-two thousand to forty-three thousand. Five senators are allowed to these parishes. The parishes of St. Charles, St. John the Baptist, St. James, Ascention, Assumption, Lafourche Interior, and Terrebonne, have a population of forty-four thousand eight hundred and forty-five, and have five senators. The Florida parishes have a population of forty-three thousand nine hundred and thirty-eight, including the parish of East Baton Rouge. Here we have three groups, each electing five senators. We now come to the north-western parishes—to the thirteen parishes in the north-west to which, under this apportionment, the house have voted seven senators. I do not pretend to say that the data before us determines with certainty the population of this particular portion of the State. They contain, according to the same sources of information, thirty eight thousand nine hundred and twenty-nine. Thus we find that one section contains forty-three thousand, the second section forty-five thousand, and the third, forty-four thousand; and to these several groups we allow five senators; while, for the thirteen north-western parishes, with a population of less than forty-thousand, seven senators have been allowed. This distribution must strike one as being in a high degree unequal. I think it is unequal, and therefore two senators should to be taken away. That will leave five senators for these parishes, which will give them an equal representation in the senate with the three groups that have larger populations. But we are met with the declaration, that they have increased in population. Gentlemen should hold in mind that other portions of the State have also increased. According to the data before us, it does not appear that the northwestern parishes are entitled to more than five senators. If injustice, however, has been done them, it will be but temporary; for by fixing the reapportionment in 1848, as originally proposed, they will obtain all that they are entitled to, and all inequalities will disappear when a census shall be taken for the purpose.

Mr. Porter moved to amend Mr. Benjamin's motion, by saying thirty-three instead of thirty-two, and called for the yeas and nays on the adoption of his motion.

Messrs. Brazeale, Brent, Burton, Carriere, Downs, Garrett, Humble, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott, of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane and Wederstrandt—34 yeas;

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brumfield, Cade, Cénas, Chinn, Claiborne, Conrad, of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Ratliff, Roman, St. Amand, Saunders, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Winchester and Winder—43 nays.

Mr. Downs moved to lay Mr. Benjamin's motion on the table subject to call, in order that he might move for the reconsideration of the vote assuming total population as the basis of representation.

Mr. Ratliff would vote against this motion, because he was desirous of fixing the number of senators.

The question was taken on Mr. Downs' motion, and it was lost.

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Garrett, Humble, Legendre, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt—28 yeas.

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brumfield, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Lewis, Marigny, Mazureau, Pugh, Ratliff, Roman, St. Amand, Saunders, Sellers, Soulé, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wikoff, Winchester and Winder—40 nays.

The question then recurred on Mr. Benjamin's motion fixing the number of senators at thirty-two.

Mr. Downs called for the yeas and nays:

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brumfield, Cade, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Lewis, McCallop, Marigny, Mazureau, Preston, Pugh, Ratliff, Roman, St. Amand, Saunders, Scott of Baton Rouge, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wikoff, Winchester and Winder—46 yeas.

Messrs. Brazeale, Brent, Burton, Downs, Garrett, Humble, Legendre, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Feliciana, Scott of Madison, Sellers, Splane and Wederstrandt—22 nays.

Mr. Downs moved to substitute the report of the majority of the committee dividing the State into eight districts, for the proposition before the house.

Mr. M. Taylor said, I believe this is distinctly my project. It was rejected by a decisive majority, and I am opposed to reviving it at this stage of this proceeding and shall therefore move to lay it indefinitely on the table.

Mr. Downs deemed it proper to explain why he offered this proposition. I am satisfied that it is impossible to apportion the representation with any thing like equality in the north-western parishes if two senators be withdrawn. There is another reason, these districts cannot be divided without cutting off large minorities. It may be deemed necessary to take Jackson from the district to which it properly belongs and put it with the Red River parishes. It will be difficult to separate the parishes in my district, and to make such a combination of them with other districts as will be satisfactory to the people, Caldwell may be placed with Catahoula, which would be a combination not desirable to the citizens of the former, as there is a natural separation between the territories of those parishes. Another effect which I deprecate would be the breaking up of that uniformity which I have invariably advocated. They ought to be uniform. But if we take the apportionment in the section for which I have moved, as a substitute, the report of the majority of the committee, we shall have some districts with four senators, some with two, and some with one. Here we find two districts on the Lafourche and the adjoining parishes so combined that they will give senators all of one party; whereas, if they were separated they would be divided in political sentiment. Gentlemen disclaim party politics; they want no gerrymandering, and yet they use up two or three democratic parishes on the Mississippi, and will not let us have a bite. But when it comes to a large whig parish, they are for combining it in such a way that its strength will tell the most. I was opposed to placing Baton Rouge with the parish of Avoyelles. I thought that the report of the majority came from the other side, from the gentleman from St. James, (Mr. Winchester;) it originated with the delegate from Lafourche, (Mr. Taylor.) As I consider that the apportionment, as it has been made by the house, is effectually upset, I have made the motion to substitute the report of the majority of the committee. It contains a provision which is very acceptable, that the legislature shall divide the State into senatorial districts; whereas, by our present proceedings relief would be denied to the people for ten years.

Mr. Porter said it is impossible, Mr. President, for me to vote for the report of the majority of the committee. By their report, the parish I represent is embraced in a district extending from the mouth of the Arkansas to the Gulf of Mexico. No greater evil would result to the parishes on the Red river from a deprivation of their just representation in the senate, than from such a district.

Mr. Mayo was unalterably opposed to large districts.

Mr. Cade was willing, if the delegates from that part of the country desired it, that the sixth district—he believed it was the sixth district—he meant the district of Ouachita—should be apportioned according to the report of the majority of the committee. But otherwise, he was opposed to that apportionment by a distribution into large districts.

The question was taken on Mr. Miles Taylor's motion to lay Mr. Downs' proposition to substitute the report of the ma-

jority of the committee indefinitely on the table; and the yeas and nays were called for.

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Brent, Brumfield, Burton, Gade, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Grymes, Guion, Hudspath, Kenner, King, Labauve, Ledoux, Lewis, McCallop, Marigny, Mayo, Mazureau,, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff, Winchester and Winder—57 yeas; and

Messrs. Beatty, Brazeale, Downs, Eustis, Humble, Legendré, McRae, O'Bryan, Preston and Splane—10 nays.

Mr. Bejamin then moved that one senator be taken from the district of Ouachita, and one from the district of Natchitoches; and that the remaining number of senators to each district be referred to the delegates of these districts to make the distribution.

Mr. Brent called for the division.

Mr. Garrett suggested that the parishes of Catahoula, and Franklin be embraced in the parishes among whom the distribution was to be made. That appeared to be just, inasmuch as a reduction was to be made.

Mr. Downs: Why this is a senatorial district of itself. If it be designed that they should also be victims, be it so.

Mr. Benjamin modified his motion that the thirteen parishes of the north-west have five senators in place of seven, and that the delegations from these parishes make the distribution and report by to-morrow.

Mr. Humble proposed that the parishes of Concordia, Madison, Tensas and Carroll be added to the thirteen parishes enumerated by the delegate from New Orleans, (Mr. Benjamin) and that the senatorial representation be distributed among them.

Mr. Sellers said that these parishes had nothing to do with the thirteen parishes, which parishes, it was believed, had obtained more than their fair proportion of representation. Nothing of that kind could be urged against the parishes in his district.

Mr. Humble said, it seemed to him that a disposition existed to sacrifice that portion of a particular district that was weakest on this floor. He was sorry that such a disposition was manifested. As far as the parish of Caldwell was concerned, it would be subjecting her citizens to great inconvenience, to place that parish in connection with the parish of Catahoula, in forming a senatorial district. The citizens of Caldwell had no objections whatever to a political association with the citizens of Catahoula; but from natural causes, these two parishes were separated, and the union between them for political purposes, would be attended with great inconvenience. It would almost be as well to attach Caldwell to the parish of Plaquemines.

Mr. C. M. Conrad: The distribution of the senatorial representation will be referred to the delegation from the district, of which delegation the gentleman (Mr. Humble) will be a member, and his views will no doubt have great weight with the committee as to what district his parish ought to be united.

Mr. Downs sustained the motion to add the parishes of Carroll, Madison, Concordia and Tensas. There was nothing but justice in this proposition. The new combination affected a district of country extending to the Texas border. Several of the parishes embraced in the motion of the delegate from New Orleans, were taken in part from some of the parishes in the Concordia district. Franklin was taken from Madison, and Morehouse from Carroll. It will be difficult to make a satisfactory and just apportionment without bringing in that senatorial district, to whom two senators have been allowed. Carroll had but a small population. He did not pretend to say they were not entitled to the number allotted to them, but he considered they had no more a prescriptive right to that representation than the parishes of the north-west had to the number originally apportioned to them, a part of which had been withdrawn.

Mr. Sellers would object to this motion. There was a gulf between his district and that of the gentleman, (Mr. Downs) that

separated them. They were as far apart as Dives and Lazarus. There was no connection; they were as much apart as two States. As for the smallness of the population, to which the delegate from Ouachita (Mr. Downs) had referred, I will simply remark that the disirict is amply entitled to its representation; in fact, more than entitled to its representation, as I can demonstrate by figures.

Mr. Benjamin sustained the motion of Mr. Sellers, to lay Mr. Downs' motion indefinitely on the table. The parishes of Concordia and Tensas, and Carroll and Madison were clearly entitled to one senator each. There was no contest as to that. It was established upon reference to the census of 1840. He could see no reason for adding these parishes to the thirteen parishes of the north-west, that were deficient in population, and for which a less partial apportionment is absolutely necessary.

The question was taken on Mr. Benjamin's motion to withdraw two senators from the thirteen parishes emanated on his motion, and to allow them five senators in place of seven.

Mr. Porter called for the yeas and nays, which were as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Brumfield, Burton, Cènas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, King, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mazureau, Pugh, Ratliff, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Soulé, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wikoff, Winchester and Winder—46 yeas; and

Messrs. Brazeale, Brent, Cade, Carriere, Downs, Garrett, Humble, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prudhomme, Read, Sellers, Splane, Stephens and Wederstrandt—20 nays.

Mr. Brazeale would suggest, so far as the district of Natchitoches was concerned, that it was unnecessary to postpone action upon this question. Since it was determined by the house that the district of Natchitoches must yield a senator, he would state that the following distribution was the unanimous report of the delegation, to wit: that one senator be allotted to the parish of Natchitoches; one senator to the parishes of Caddo, De Soto and Sabine, and one senator to the parishes of Bossier and Claiborne.

On motion the house took a recess for the purpose of allowing the delegation from Ouachita to consult among themselves.

When the Convention resumed their sitting,

Mr. Downs stated that the delegation were unable to agree unanimously. Mr. Humble and himself concurred in recommending that the five parishes, to wit:—Union, Ouachita, Caldwell, Morehouse and Jackson form one senatorial district. Mr. Garrett, his other colleague dissented; that delegate proposed to add Jackson to Claiborne and Bossier, and Caldwell to Catahoula and Franklin, and to form a senatorial district of Union, Ouachita and Morehouse. Mr. Downs was opposed to dividing contiguous parishes in a district that had always been united, and transferring some of them to parishes with which they had no identity, and with which they would have to form new associations. He preferred that the district should remain as it was until a new census would enable it to obtain its just weight. There was more fitness in that than in the proposed division.

Mr. Garrett deemed it proper to offer a few words of explanation. His course course in relation to the formation of the senatorial districts, had not been dictated by political considerations, but by a sincere desire to promote what he conceived to be the wishes of his constituents. In that spirit he had proposed to form one senatorial district of the parishes of Union, Morehouse and Jackson, and the other district of the parishes of Ouachita and Caldwell. It was upon his motion that these districts were formed, and their combination was not at all calculated to subserve the interests of the political party to which he belonged. On the contrary, the result would be to the benefit of the other political party, but that consideration had no weight with him. He consulted only the convenience and wishes of the people. But a new combination had become necessary, inasmuch as one senator had been withdrawn from the district composed of those parishes, and

consulting again what he conceived was for the greatest convenience of the people residing therein, the result would be a combination which might have a contrary political tendency from the first. That, however, would not influence him, and were he not convinced that it was the most proper course to take, in view of all the circumstances, he would concur with his two colleagues (Messrs. Downs and Humble) in their proposition. He was aware of his peculiar position in relation to this matter. The necessity for making another distribution than that originally suggested by him, of the parishes on the Ouachita, had been forced upon the delegation from those parishes by the Convention. It so happened, that the best distribution that could be made, might be promotive of a line of politics that were his own—that were different from those of his honorable colleagues, and different from those of the majority in this body. He trusted that his motives would not be misconceived, and that the reasons that induced him to come to the conclssion he did, would have their just weight with the Convention. His proposition was to unite Caldwell with Catahoula. There appeared to him to be some fitness in placing these parishes in the same district, inasmuch as two-thirds of the territory of the former were taken from the latter. The parish of Caldwell would be only returning to the parental bosom, and there could be no great difficulty in reviving former associations. In relation to the parish of Jackson, it was a new parish, and its territory was formed in part from the parish of Claiborne. It would readily unite with the latter, as, as yet it had formed no political associations. These two parishes transferred, the one to Catahoula and the other to Claiborne, the old district of Ouachita would be left with its originel elements. The old ties existing betwen its inhabitants would not be severed—the old territory would remain united, and the new territory would be placed in connection with territory from which it had in part derived its existence. There was another reason why this course should be adopted; the district composed of Claiborne and Bossier was but a small district—the same remark would apply to the district composed of Catahoula and Franklin—and the addition of Caldwell and Jackson to these districts, would make them bear a more relative proportion to the other districts; whereas, by placing all the five parishes together in one district, as suggested by his colleagues, it would make a district disproportionate in size and in population with the others. The territories of these districts, if the parishes are distributed as I propose, said Mr. Garrett, will be contiguous and compact, and adapted to the localities of the country. I have sunk on this, as on every other occasion since I have had the honor of a seat in this body, all political considerations. I am advocating what I consider just and proper. I am sorry to differ from my colleagues upon this matter; but these are the results of my solemn convictions, and if the politics of the district should not be conformable to theirs, it is the consequence of the necessity under which we act—of the distribution which has been forced upon us, and which should be made irrespective of all party purposes.

Mr. Humble conceived it necessary for him to explain his views in relation to this matter. It was doubtless expected from him by the house, and it was due to those he had the honor of representing on this floor. He represented the parish of Caldwell. The census of 1840 gave no adequate idea of the population of that part of the State, that was now about to be sacrificed. It afforded no just criterion upon which the Convention could or ought to act. The new parishes have sprung up since 1840; their populations have increased the most within the last two years; they have attracted a continued stream of population since that period. There are ten or twelve steamboats engaged in the trade with the country upon the Ouachita; the resources of that section of the State are beginning only to be fully developed. Every steamboat comes freighted with crowds of enterprising emigrants, and if a census were now before the house, the glaring injustice of taking the census of 1840 as any thing like an indication of the population of parishes that were then in their infancy—in their cradle, would be most apparent. Great injustice has been done by literally confining ourselves to that census—not to the old parishes of the State, because they have increased but little, but to the new parishes, where the

increase has been in a far different ratio. But inasmuch as this has been done, let us not sacrifice the unity of our parishes—let us not divide our strength, but keep it together until a fairer apportionment shall do us that justice to which we are entitled.

In reference to Caldwell, he was speaking but the will of his constituents, when he said they did not wish to be severed from their past political connections. It was true, as had been stated by the delegate (Mr. Garrett) that two-thirds of that parish has been taken from Catahoula. But that has been eight or nine years ago, and new settlements have been formed, so that no connection between the two parishes can be properly said to exist. They are divided by an impassible swamp—the swamp of Catahoula, which is the abode of cranes and alligators.

The only connection between the parishes is on one side in the piney woods; there is some connection here where the old settlers are found; but in the new and flourishing settlements of the parish of Catahoula there is no connexion, and but little acquaintance. It is from no dislike to the people of that parish, that the inhabitants of Caldwell do not desire the connexion; but because they have had no association, and are cut off from any association by physical causes from the parish of Catahoula. The citizens of Caldwell desire to be attached to the parish of Ouachita. They have instructed me to that effect. I have not (said Mr. Humble) been influenced by political considerations in my votes, although I am a locofoco, and my colleage (Mr. Garrett) is a whig. That, however, has not influenced me. I think, irrespective of party politics, that the wishes of the people ought to be consulted in forming the districts. The parishes of Catahoula and Franklin are sufficient to form a district, and are entitled to a senator. Let them have it. And since from the necessity of the case, we must unite the five parishes of Union, Morehouse, Ouachita, Caldwell and Jackson together, or split them up and transfer them to other territory, I say, by all means, preserve them as they are. The proposition of my colleague (Mr. Garrett) is not satisfactory to me, nor will it be to my constituents.

Mr. Downs said he deemed it not improper to submit some other considerations to those adduced by his colleague (Mr. Humble.) It is true, as alleged, by my other colleague (Mr. Garrett) that Caldwell was taken from the parish of Catahoula. At first, she voted with Catahoula, but since the new apportionment, she has voted with Ouachita. The parishes of Catahoula and Caldwell are disconnected by the physical conformity of the country. There is an impassable swamp between them.

As for the parish of Jackson, although in part her territory is derived from the parish of Claiborne, there would be a want of suitableness in placing her in a district with that and another Red river parish. She is more immediately connected with Ouachita. Monroe is her town, and her business is centered in that town. The wishes of the inhabiants too, should be taken into consideration. Most of the inhabitants of Jackson are settlers of the old district of Ouachita. As my colleague (Mr. Humble) has said the people of Caldwell are wedded to their former associations; they would, if consulted, be disposed to be transferred to the territory of Catahoula. I trust that the old senatorial district will be maintained. If it be resolved upon to despoil that district of its just weight, be it so, but do not cut it up into fragments—into piece-meal—with a limb amputated, and sent to Red river, and another limb to Black river. Do not cut it up and divide it into minute fragments. I hope that this will not be done. Sufficient injustice is contemplated without that. Let the old Ouachita district remain as it is, even if it is to be shorn of a portion of its political power.

Mr. Downs then gave notice that he would move to reconsider the vote assuming total population as the basis of apportionment in the senate.

Whereupon the Convention adjourned.

Friday, April 4, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. Nichols.

The journal was read and approved.

Mr. Garrett then moved to reconsider the vote of yesterday allowing one senator to the parishes of Bossier and Claiborne.

He remarked that when the vote was taken he was not present.

Mr. PEETS, in objecting to the reconsideration, remarked that the county of Natchitoches had been allotted four senators, and the county of Ouachita three senators; after that, the delegates from each district met together, and with a view of meeting the difficulty that presented itself on this question, the county of Natchitoches had agreed to take off one senator. Mr. Peets desires to call the attention of the Convention to the fact, that the two districts are separate and distinct: the Natchitoches district from the Ouachita district.

The population of the county of Natchitoches is twenty-five thousand, they pay twenty thousand dollars into the treasury. The population of the county of Ouachita is twelve thousand, and they pay into the treasury about twelve thousand dollars. It is now proposed to reconsider the vote of yesterday, to saddle us unjustly with a parish that does not properly belong to us. He (Mr. Peets) objects to it; for it is wrong, and cannot be sustained on any fair or just principle. When you look at population, it is clearly out of all reason. When you look at taxation, that speaks equally for itself. The two districts are then totally different—they have no feeling in common. Besides all that, there is a natural division between them—a dividing line. In the parish of Claiborne the whole business is done on Lake Bisteneau; while that of the parish of Jackson has heretofore and naturally been done on the Ouachita river.

He desires to state to this Convention, that if the motion prevail, it wlll be an act of the grossest injustice to the county of Natchitoches in the first place; and in the second place, it will be equally unjust towards the citizens of the parish of Jackson. There would be a greater injustice in it, than meets the eye. Why take a man away from his natural habits and pursuits in attending to his political privileges? Why force a man in attending to those rights to go miles out of the way unnecessarily? That is the question: and to that, so far as it goes, I contend, said Mr. Peets, against the change, for if it be sustained, you force the people of the parish of Jackson to do that which they do not want, and which would be not only disagreeable, but inconvenient to them. Besides all that, it is known that farmers usually attend to their private and political business at one and at the same time; and there is no earthly necessity in forcing them out of their usual habits. Take the map and it will speak for itself. The parish of Jackson is totally isolated from Bossier and Claiborne.

These two parishes are increasing very rapidly, particularly the parish of Bossier; and there can be little doubt that in 1850 she will be entitled, by her population, to one senator alone. The increase has been greater in that parish than in any other part of the State; even the past year it has increased in population fully two thousand.

The parish of Jackson is about twenty-four miles square. He does not think it is right to keep her bandied about, but on the contrary, she ought to be kept where she now is. She is small, it is true, but that is no reason why we should commit an act of injustice to her; and assuredly it would be an act of flagrant injustice were we to do it. Besides taking into view the local position of the county of Natchitoches, it would not be right to attach any part of the county of Ouachita to it. He (Mr. Peets) feels sure that it will give great dissatisfaction to his constituents, and he will be blamed if the measure should pass, but not so with the delegate from Ouachita; (Mr. Garrett) for if he gets clear of the parish, he will at the same time get clear of their thunder.

Mr. GARRETT desired to explain the reasons which would influence him in proposing the annexing the parish of Jackson to the parishes of Claiborne and Bossier, as the delegate from Claiborne has gone into such an elaborate discussion on the subject. The county of Natchitoches arranged the matter among themselves, and doubtless they arranged it to suit themselves, in the deduction of the senator from their district; but that is no reason why a change should not be made if justice to the neighboring county required it. Now to do that we must add the parish of Jackson to the district comprising Bossier and Claiborne; for what equality would there be if on the one side we had a district composed of Claiborne and Bossier, and on the other of Catahoula and Franklin, while in the centre, consisting of five parishes, an-

other district is formed in which there is one, the parish of Ouachita, which has a greater population than either of those in the district surrounding her.

He conceives that the first object in apportioning representation, should be to arrive as nearly as practicable at the same number of population; any other mode would be to gerrymander the districts. In proposing therefore to add Jackson to Claiborne and Bossier, he would also propose to add the parish of Caldwell to Catahoula and Franklin—then the territory and population of the three districts would be nearly equal. Let us see how they compare as at present laid off. Catahoula and Franklin have a population of four thousand nine hundred and fifteen. Claiborne and Bossier, six thousand one hundred and eighty-five; and Caldwell, Ouachita, Union, Morehouse, and Jackson, eight thousand four hundred and ninety-seven. The last district, it will be seen, has almost as large a population as the two first together.

Let us then in addition, examine the tax roll. Catahoula and Franklin pay three thousand nine hundred and seventy-seven dollars; Claiborne and Bossier, three thousand five hundred and sixty-nine dollars; while the parish of Ouachita alone pays four thousand two hundred and forty-two. If then the division be made as I propose, the taxation as well as the territory and population, will be about equal as it is; it is a crying injustice to leave one senator only to five parishes. He represents the whole district, and he desires that the voice of every parish in it should be heard on this floor. The cardinal point for us to attend to first is to act justly—and that can only be done by adding the parish of Jackson to the district before mentioned. It is admitted on all hands to be a small parish, although capable from the quality of its soil of considerable increase in the population. He does not regard the argument which is used about the citizens of Jackson feeling outraged at the separation from the Ouachita district, as worthy of consideration. And although it is also urged by the delegate from Claiborne, (Mr. Peets) that the citizens are desirous of voting with Ouachita, he must think from what has heretofore happened, that they are not very solicitous about it, for they have separated themselves from the parish of Ouachita and set up on their own account.

Now if we are to be governed by the basis of total population, or territory, or taxation, either separate or combined, there can be no justice in the apportionment if the plan I propose be not adopted.

Mr. Brazeale remarked, that if he understood this question, when the proposition was made to take two senators from the north-western parishes, a recess was had to enable the delegates to confer together and make an equitable distribution. The county of Natchitoches has a population of twenty-five thousand eight hundred, while that of Ouachita is but a little over twelve thousand. It was then determined that the former should be allowed three, and the latter two, making five in all, instead of seven, as reported by the committee; then they divided the districts out to suit themselves. He cannot see with what justice they now want to tack on another parish to Natchitoches, to increase the number of population, already greatly disproportioned. He shall most assuredly oppose it.

Mr. Benjamin regards the question thus: there are five senators to be allotted to thirteen parishes, and it was a matter of comparative indifference to us how they divided them out among themselves, so long as they all agreed about it; but as there is a difference of opinion among them, he thinks it is the duty of this Convention to interfere and settle it on fair and equitable principles instead of leaving it to them. At one time he thought the matter had been settled between them, but it turns out otherwise. It was proposed to give the parish of Natchitoches one senator, to which we agreed; one to Caddo, De Soto and Sabine, to which we agreed; then one was asked for Claiborne and Bossier, and I suggested that the parish of Jackson, if added, would make the district nearer equal; but to give only two senators to seven parishes, while we were giving three senators to six parishes, appeared to his (Mr. Benjamin's) mind an act of glaring inequality. However, when he heard that the matter was perfectly understood between them, he withdrew his motion.

It appears, however, that the difficulty has again arisen from some misunderstanding about the apportionment among those

seven parishes, and he moves a reconsideration of the vote he refers to, given by him; for if they can't agree, we must endeavor to settle it fairly for them. It is now proposed to divide them thus: one to Claiborne and Bossier; one to Union, Morehouse, Jackson, Caldwell and Ouachita. We must endeavor to ascertain if that is a proper division prior to the reduction from seven senators to five. These parishes were divided by the delegate from Ouachita (Mr. Downs) in his his minority report, thus: Claiborne and Bossier one; Catahoula and Franklin one; Ouachita and Caldwell one; and Union, Morehouse and Jackson one, in all four senators, now to be reduced to three. The proposition is to leave two untouched and put two into one. He can hardly think that would be right, certainly it is not if the apportionment made by the delegate from Ouachita was correct before. It was then stated that Catahoula and Franklin had one-fourth of the population, and Claiborne and Bossier one-fourth; that would bring then this result, that the four parishes with half the population would have two senators; while the remaining five, with the other half, would only get one; that is certainly not right, on the very face of it; it must strike any one, at the first blush, that one-half gets two-thirds, while the other half only gets one-third.

There are five senators allotted to thirteen parishes, of which the county of Ouachita gets only two, the parishes of Catahoula and Franklin, forming part of that county. Now four parishes have had two allowed them, and it cannot be possible, if divided in a satisfactory manner before, that it can be equal now, to give those five parishes only one, for which before two were claimed as fairly due, at least unless some conclusive reason can be given for it. It is neither right for the present apportionment, nor the future. It will give those two districts too great power, and then, when the next apportionment is made they will contend that they ought not to be taken away, because granted now. He (Mr. B.) is opposed to giving them any plea for claiming two senators then, when they are not entitled to it now; while the other five parishes will have a good right to lay claim to two senators, on the basis we have established. It is a manner of reaching the point at a later period, to which they cannot now justly lay claim. These nine parishes should be equally districted, and not four by two senators, and five by one senator, for the parish of Ouachita alone pays more taxes than Claiborne and Bossier together; and what justice can there be in joining her to four other parishes, when those two are alone entitled to one senator? He thinks the delegate from Ouachita (Mr. Garrett) has made out a very strong case to this house, and shown clearly that the object is to get another senator in 1848, which they cannot obtain now. He urges then the reconsideration of the motion adopted heretofore, allowing Claiborne and Bossier one senator.

Mr. Porter: I had thought that the question, as to the basis, was permanently fixed yesterday to be total population. Now, much as I object to that basis, if it be that by which we are to be governed, Claiborne and Bossier are fully entitled to one senator, for the seven parishes of the county of Ouachita contain a population of eleven thousand five hundred and seventy-five, or five thousand seven hundred for each senator. Claiborne and Bossier have a larger population, by one thousand, than that average. The county of Natchitoches has taken more than her proportion; we have taken eight thousand three hundred as the number for each senator; and he should consider it unjust to interfere with the parishes of Claiborne and Bossier.

Mr. Garrett remarked to Mr. Porter that there must be some error in his calculation, for he made the number of population in Ouachita county thirteen thousand four hundred and twelve.

Mr. Peets remarked that no one ever dreamt of such an idea as attaching the parish of Jackson to Claiborne and Bossier, until it was broached by the gentleman from Ouachita, (Mr. Garrett.) That parish had been formed out of the parishes of Union and Ouachita, with the exception of a very small part of it, and properly and naturally belonged to that district.

He could say in reply to the delegate from New Orleans (Mr. Benjamin) that it was not taxation, but total population which was the basis we have adopted, and Claiborne and Bossier have such an amount of population as to entitle them to one senator, when compared with the other districts. He does not see why they should

be made the victims; for having a population of nearly seven thousand, they are fully entitled to it, and certainly if the rule is good for one, it is alike good for all.

Mr. Downs rose to offer his thanks to the delegate from New Orleans, (Mr. Benjamin) for the deep interest he had taken in the senatorial apportionment of the county of Ouachita, but while he assured us that he had no manner of interest in the matter, he had some how managed to make one of the closest analytical arguments against the plan proposed by a majority of the delegates of that county, that he had ever delivered in this house. He reminded him (Mr. D.) a great deal of the old woman, who, after having worked herself into a terrible passion, asserting at the same time: "You see how cool and calm I am."

But he hopes that gentleman will permit the delegates from that county to settle their own family differences, although he can well understand the motives that prompted his friendly interference in the matter, and what their tendency. The arguments of his (Mr. Downs') colleague appear to him either as untenable, or intended to operate in favor of the party to whom we are opposed in politics, and we cannot follow his plan without departing from the rule we have heretofore adopted, of not separating any of the parishes from the districts in which they have heretofore voted and properly belong. He proposes to take off Jackson on the one side, and add to Claiborne and Bossier; and Caldwell on the other and add to Catahoula and Franklin; to take a parish from one senatorial district and add to another; that has never been done, for even in the division of Attakapas they placed St. Mary and St. Martin together; Vermillion and Lafayette, and St. Landry and Calcasieu—that which you refused to do before, you now do doubly, and you might just as well say that Jackson and Caldwell should remain blank and have no election, for if thus placed among strangers their voice will not be heard.

There is another reason why he trusts the motion will not prevail, for if it does, we shall then have to reconsider the vote postponing the next apportionment until 1855, for that will certainly have to be done if we do, and he (Mr, D.) feels convinced that the parishes prefer, in that case, remaining as they are until a new apportionment is made in 1848 on the census of 1847. They would rather submit to the inequality than to have one parish taken from the district and thrown over to Red River, and the other to Catahoula and Franklin. He is satisfied that a large majority would prefer it.

His colleague is mistaken, if he thinks that the citizens of Jackson desire to have the district changed. It is not so. He has based his argument on a fact certainly that they have formed themselves into a separate parish, but his conclusions are erroneous, and not in accordance with their wishes; for they would avoid any such device, and repel it; for they are perfect strangers to those parishes to which you would attach them. There is not that inequality which is generally supposed between Catahoula and Franklin and the parishes of Ouachita, Union, Morehouse, Caldwell and Jackson; for if you take the census of 1840 for our guide, as it has been done, which I cannot but think is every way incorrect—(for in the parishes of Ouachita and Union, according to recent investigation, we have double the population reported in 1840)—but as it has been done by others in their arguments, I am of course free to use it myself, and by referring to it what do we find, why that the five parishes have a population of eight thousand four hundred and ninety-six; while Catahoula, alone, has a population of four thousand nine hundred and fifteen, without counting Franklin; and the two together do not vary more than one thousand from the full ratio. But if there were ten-fold greater inequality, they have a perfect right to require, if they will, that they should not be separated. He hopes that the motion to reconsider will not prevail. No senatorial district has yet been divided. Then why should ours be?

The delegate from New Orleans thinks we want an excuse to get another senator. Why, is he not satisfied with cutting us down two now, and does he wish and expect the proscription to last forever? Let me (said Mr. Downs) tell him that he need not trouble himself on that score, for they will have another apportionment before long, any how; and now that the line has been drawn, he expects to see the apportionment made in the strictest manner.

He will find himself mistaken if he thinks he can get another on his side of the question when that is done; he will have much less fun then than now. He (Mr. Downs) represents the whole district, and feels sure that Caldwell does not wish to be separated; but he relies more on the representations made by the delegate from Caldwell (Mr. Humble) for he comes direct from that parish, and he tells you emphatically that they do not want to make the change. Why then, should this Convention disregard their wishes?

Mr. Mayo said he was, perhaps, less interested in this distribution than any member from that section of the country; but the facts have not been stated correctly by any member, and he feels it his duty to lay them before the Convention, when it will be found that the difference is not so great as members suppose. In 1842 the parish of Franklin was formed out of the parishes of Ouachita and Catahoula, about eight hundred souls were thus transferred from the parish of Ouachita to the parish of Franklin. Now, if you take that number off of Ouachita and add to Franklin, it will materially alter the tables. What I state are facts.

If the division is made as proposed, the result would be that Claiborne and Bossier have a population, according to that table, of six thousand one hundred and eighty-five; the five Ouachita parishes, after deducting eight hundred off of seven thousand six hundred and ninety-seven, and Catahoula and Franklin of five thousand seven hundred and fifteen, and if that be correct, as he believes it is, for he thinks the whole of that country has increased in about an equal ratio, it will be seen that the difference is not so great as it would appear at first sight. For his part, he shall be equally contented, whether Caldwell is added to Catahoula and Franklin, or retained in the district, as proposed.

Mr. Benjamin takes the earliest possible moment of acknowledging that the lesson which the honorable delegate from Ouachita has taught him is deeply impressed on his mind; and he loses not an instant in making the *amende honorable*, and in saying that he was wrong in interfering in the family differences of the Ouachita delegation. But he trusts that delegate will pardon him, when he comes to reflect that he (Mr. B.) was only following the example set him by the delegate from Ouachita (Mr. Downs) himself. It must be remembered by that gentleman, and by every member of the Convention, that while the discussion was going on in the apportionment of the representatives for the city of New Orleans, the gentleman himself took a very active part in the debates, and showed us how much he was attached to our interests. When the present question came up for discussion, as none of my colleagues (said Mr. B.) seemed disposed to repay his kindness and attention in settling our family differences, I conceived it my duty from politeness alone, to endeavor to aid him through his troubles.

He complains of it—and I admit I was wrong—the lesson was a good one, and I withdraw from the discussion, but while I do so, I would fain hope that he himself will follow my example, and that when the question comes up on the senatorial representation of the city, he will be as mute as I shall hereafter be about the Ouachita parishes.

Mr. Garrett: My colleague (Mr. Downs) has told you that the parish of Catahoula has a population of four thousand nine hundred and fifteen alone; but he forgot to tell you what was the population of Franklin. The delegate from Catahoula (Mr. Mayo) further tells us that the parish of Franklin took eight hundred of the population of Ouachita from that parish; this is clearly all guess work, as there is no means of knowing.

In 1840 the Catahoula district had a population of four thousand nine hundred and fifteen. The Ouachita district eight thousand nine hundred and thirty-seven, and Claiborne and Bossier six thousand one hundred and eighty-five. Since that period there has been a rapid increase throughout that country; and certainly as great in Union, Morehouse and Ouachita, as in any other part, for my colleague says that there have been taken into the parish of Union alone as many slaves since the census of 1840, as there were inhabitants in it when the census was taken. If we are to take the fairest index to show the increase, it will be the comparison in the tax roll of 1843; then Catahoula and Franklin paid in one thousand eight hundred and ninety-seven dollars and fifty cents; Cald-

well three thousand nine hundred dollars; Ouachita four thousand two hundred dollars; and Claiborne and Bossier three thousand five hundred and sixty-nine dollars. The district then before us, the Ouachita district, paid as much as both the others put together.

He (Mr. Garrett) thinks also that no dissatisfaction does or will exist about connecting the parishes of Claiborne and Bossier with the parish of Jackson. There will be no ill-will about it, for it was formed out of the parishes of Claiborne, Union and Ouachita. They are intimately connected with each other, and are united in territory, and have no prejudice against each other, but the reverse; the very best of feelings reign between them; while on the other hand, if he is not very much mistaken, there will be great indignation if these five parishes are kept together, and only entitled to one senator. There is no justice in it, and he (Mr. G.) hopes this Convention will sustain his motion.

Mr. Mayo desired to call the attention of the Convention to an error, committed no doubt unintentionally, by the honorable delegate from Ouachita (Mr. Garrett.) The parishes of Catahoula and Franklin together, paid three thousand two hundred dollars taxes in 1843, and not the amount as stated; but he does not think that should be taken into consideration at all in this question; where we can only be governed by total population.

Mr. Miles Taylor thought upon looking more particularly over the tables, that we ought not to disturb the apportionment for the parishes of Bossier and Claiborne; for on the basis which we have determined to adopt, they have a total population, according to the census of 1840, of six thousand one hundred and eighty-five. The seven remaining parishes can be divided so as to leave three, with a population of six thousand nine hundred and thirty-four; and the remaining four with a population of six thousand four hundred and sixty-eight; leaving Caldwell, Catahoula and Franklin with only about seven hundred more, and Jackson, Ouachita, Union and Morehouse, with only two hundred and eighty more than we find in the first named parishes.

The question was then put on the motion offered by Mr. Garrett—and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Benjamin, Boudousquié, Bourg, Brumfield, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Kenner, King, Labauve, Legendre, Mazureau, Penn, Roman, Roselius, St. Amand, Saunders, and Winder—26 yeas; and

Messrs. Beatty, Brazeale, Burton, Cade, Carriere, Downs, Eustis, Hudspeth, Humble, Ledoux, Lewis McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winchester—40 nays; so the motion was lost.

Mr. Humble then moved the adoption of the majority report, constituting, 1st, the parishes of Jackson, Union, Morehouse, Caldwell and Ouachita, one senatorial district with one senator; and 2d, the parishes of Catahoula and Franklin one senatorial district, with one senator.

Mr. Garrett moved to amend the motion by striking off the word "Caldwell" from the first mentioned district, and adding it to the second, to wit: the parishes of Catahoula and Franklin.

Mr. Humble deeply regretted that this motion had been made, and trusted it would not prevail; but while he shall endeavor to defeat, it will only be because he knows that his constituents in the parish of Caldwell are not desirous that such a change should be made. He remarked here, on a previous occasion, that there was a natural division between these parishes, but he did not mean for a moment to say that there were any unkind feelings between them; on the contrary, they were friendly and neighborly—the utmost friendship existed between them—and he believes he states that which is literally true, that the delegate from Catahoula, (Mr. Mayo,) is equally as popular in the parish of Caldwell as he is in his own parish. But he is endeavoring to call the attention of this Convention to the fact, that the citizens of Caldwell do not wish to have their political connection with the parish of Ouachita severed.

Before he left home, he heard many calculations made on the subject, and there seemed to be but one opinion on the subject. He (Mr. Humble) has been a citizen of that parish a long time; he has many a time rode thirty miles to help the early settlers of the country roll logs. He has been sheriff of the parish, and he professes to know their feelings and wishes on this sabject; and he hazards nothing in saying that it is their wish to join the parishes above in their representation in the senate. For these reasons, much as he esteems his colleague as a bosom friend, he is compelled with great pain, to move to lay the motion made by him on the table.

Mr. Lewis said, that whenever the delegates of any particular district could not agree among themselves, he thought it was the duty of the Convention to interfere, and do that which justice required; for, having laid down the rule on which we base representation in the senate to be total population, we should ourselves set the example for the legislature to follow. There is no one more desirous than he (Mr. Lewis) is, to accommodate the delegate from Caldwell, (Mr. Humble) if it could be done in accordance with the principle we have established. But it seems that the five parishes united give a total population of eight thousand four hundred and eighty-seven, while the parishes of Catahoula and Franklin have only a population of four thousand nine hundred and fifteen. It cannot therefore be just, with so great a disproportion in the population; but if Caldwell be united to Catahoula and Franklin, the population will be six thousand nine hundred and thirty-four, which is a much nearer approximation to an equal division than the former, and one we ought not to hesitate about adopting. It is his wish to comply, in all cases of apportionment, with the wishes of members from the different districts, when it can be done without injustice; but when one says it is unequal, and another says it is wanted by him in one particular way, to suit his constituents—when there is, I say, such a difference of opinion, we had better reduce it to figures; for, without you do that, you cannot divide, unless you make the division unequal. He thinks the delegate from Ouachita, (Mr. Garrett) has made out a case that is beyond dispute, and that the districts as moved for would be unfair and unjust, and consequently he shall vote for the motion to strike out the parish of Caldwell from the first mentioned district, and add it to the second.

Mr. Downs expressed himself as greatly surprised at the turn the debate had taken. He thought it was closed; but it seems to have been revived in a quarter in which he had least expected it. Surely the delegate from St. Landry had not forgotten that the Ouachita delegation had not attempted to interfere with him, when he proposed to attach the parish of Calcasieu to that of St. Landry, and thereby entitle her to two senators. Why, then, should he complain because the Ouachita district did not wish to be divided in her senatorial representation? He is the last man in this Convention whom he (Mr. Downs) would have expected to have taken that ground; for he had remarked that it was not right to divide the representation when the territorial connection was so great as it was in the parishes of St. Landry and Calcasieu. If it were so then, it is no less so in the parishes that we wish to keep together now. In point of territory, you have only to look at the map, and you will find that the parishes of Catahoula and Franklin are the most extensive of any senatorial district in the State, and that together they have larger boundaries than any other. Besides that, they are rapidly filling up. Black river is settling from one end to the other; and he should not be at all astonished, that there are more slaves taken into that settlement since 1840, than their inhabitants at that time.

Catahoula and Franklin are justly entitled to one senator. He (Mr. Downs) is always opposed to dividing any senatorial districts which are so closely allied as the Ouachita parishes, and hopes it will not be done. He feels sure it will not be acceptable to a large portion of the people in those parishes, to divide them.

Mr. Garrett, in reply, remarked that the natural position of the parishes of Catahoula, Caldwell and Franklin required that they should be kept together, and that he is of opinion they are not so much disposed to reject the alliance as some others think they are. On the western boundary, Catahoula extends the whole length of the parish of Caldwell; while on the eastern boundary, the parish of Franklin extends

for a considerable distance. Thus, it will be seen, she lays, as it were, in the arms of her mother. He hopes, therefore, taking total population, territorial contiguity and taxation all into consideration, that the Convention will see the justice of the case, and adopt the amendment.

Mr. BRAZEALE remarked that there was great diversity of opinion on this subject, but as he thought it was not right to divide a district against its own wish, he should vote to lay the motion of the delegate from Ouachita (Mr. Garrett) indefinitely on the table.

The question was then put, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Soulé, Splane, Stephens, Voorhies, Waddill and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brumfield, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Madison, Sellers, Taylor of Assumption, Taylor of St. Landry, Trist, Wikoff, Winchester and Winder voted in the negative—36 nays; so the motion to lay on the table was lost.

Mr. BRAZEALE then moved to put the whole seven parishes together, and form one single district with two senators.

Mr. HUMBLE said that would be more srtisfactory than the proposed division.

Mr. MAYO moved to lay the motion indefinitely on the table.

After some few remarks from Messrs. Mayo, Downs, Guion, Brazeale, Beatty, Humble and Garrett,

Mr. BRAZEALE withdrew his motion.

The question then recurred on the amendment offered by the delegate from Ouachita, (Mr. Garrett,) and the yeas and nays being called for, resulted as follows:

Messrs Aubert, Beatty, Benjamin, Bourg, Brumfield, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Madison, Sellers, Taylor of Assumption, Taylor of St. Landry, Trist, Wikoff, Winchester and Winder voted in the affirmative—37 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Soulé, Splane, Voorhies, Waddill and Wederstrandt voted in the negative—27 nays; so the motion prevailed; and Catahoula, Franklin and Caldwell form one district, with one senator; and Ouachita, Union, Morehouse and Jackson, one district, with one senator.

Mr. DOWNS then moved to reconsider the question, in reference to apportionment being made after the year 1855: that no parish shall be divided so as to be included in more than one district; that the number of senators shall not be less than twenty-five, nor mone than thirty-four, to be allottel according to the population of each district; and that no parish shall have more than one-eighth of the total population.

Mr. DOWNS moved to strike out the words "after 1845," and insert instead "in every year in which they shall apportion," &c.

Mr. CULBERTSON inquired if the number of senators was not to be thirty-two instead of thirty-four?

Mr. CONRAD considered thirty-two a sufficient number, and would move to insert that as the limit.

Mr. RATLIFF considered that as the house had decided upon the number thirty-two, it would be as well to fix it for the present at that number. He thought it improper to leave the power of increasing the number of senators to the legislature; at the same time, he deemed it necessary that they should have the power of equalizing the several senatorial districts, so as to meet the exigencies that might arise hereafter. It was impossible to foresee the dangerous results that may be the consequence, if the power of either increasing or diminishing the number of the senate were left in the hands of the legislature.

The political power of a section of the State might be wrested from it; he therefore hoped that the number thirty-two would be permanently fixed, so that no power will be left to the legislature, but that of equalizing districts from time to time, as increase of population and other causes may require.

Mr. Lewis moved to amend the clause, by inserting after the words "number of senators" the words "shall be thirty-two;" which was adopted.

Mr. O'Bryan moved to strike out "total population," and insert "electors;" but his motion was out of order, the amendment having been already rejected. He contended that, inasmuch as the basis was never before the house, it could not be said to have been rejected. After some remarks from several gentlemen, the decision of the chair prevailed.

Mr. M. Taylor called for the adoption of the section.

Mr. Downs wished to include an additional provision in the section, in reference to the senatorial apportionment. The secretary having read the project,

Mr. Benjamin moved that it be laid on the table, subject to call, with a view to have it printed and laid before the members. Carried.

Mr. Lewis asked, if he was then in order, to move a reconsideration of the vote on dividing the city of New Orleans into three districts—having voted in the minority; or whether he should give notice to that effect?

Mr. Benjamin said that Mr. Mazureau had already given notice to that effect.

Mr. Preston said, as there had been no direct vote taken on inserting "qualified electors," as the basis of senatorial apportionment, and as, when the question of "total population" had been brought up, he voted for it, in a spirit and with a view to effect a compromise with gentlemen from other sections of the State; and now, that one of the principles involved had been taken out of the clause, namely: a new apportionment being made in 1848—he hoped that the house would not object to reconsider the vote upon that question. He had voted against it under a wrong impression, and he was anxious to be set right before his constituents; and the question now, of taking up the vote to reconsider, with a view to insert "qualified electors" in lieu of "total population," would give every delegate an opportunity of declaring himself as he wished to appear before his constituents.

The rules of the house having been dispensed with, on motion of Mr. M. Taylor, the question for reconsideration was put, and the yeas and nays were called for; when

Messrs. Brazeale, Burton, Brumfield, Cade, Carriere, Downs, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of East Baton Rouge, Scott of East Feliciana, and Wederstrandt voted in the affirmative—23 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brent, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Hudspeth, King, Legendre, Lewis, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Soule, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wikoff, Winchester and Winder voted in the negative—37 nays; so the motion was lost.

Mr. Taylor then moved the adoption of the clause, and his motion prevailed.

Mr. Lewis moved to amend that part of the section dividing New Orleans into four districts, by inserting "that all that portion of New Orleans on the left bank of the Mississippi shall be one senatorial district, and shall return four senators." He knew this to be a subject which had created a good deal of jealousy and dissatisfaction in the country. The city of New Orleans being a distinct political corporation, had no right to be divided into separate districts no more than had the country parishes, and these have not been divided except where in some few instances it could not be avoided, and where the representatives from that section of country had required or were in favor of it. He felt some degree of surprise indeed, that such a proposition had ever been made at all; had any such proposition been offered to divide a country district, we should have heard a general expression of astonishment at it. The country looks on the city with a vast deal of jealousy, because they

justly consider that wherever a dense population is crowded into a small space, they obtain unjust and undue political advantages; thus New Orleans by this means has a preponderance over the balance of the State. In the organization of the house of representatives, the city was divided into nine electoral districts; and now an attempt is made to divide her senatorial representation in three districts. This was in his opinion proceeding in violation of that principle laid down by them at the outset, "that representation shall be equal and uniform in this State." The allotment of representative power already made in favor of New Orleans appeared to him to admit of a good deal of questioning as to its justice when taken in comparison with other portions of the State. He admitted the justice and necessity of restraining commercial communities, but in this instance he would say that if New Orleans is to be divided at all, let her be equally divided; let it not be said that one portion within her limits, which has now nearly reached its acme, shall have double the number of senators that you give another and rapidly growing quarter. He hoped sincerely that if they divided at all, they would do so by placing each section as near upon a footing of equality as possible; as equally as the country parishes were apportioned at least, and not have this glaring instance of inconsistency manifest in their proceedings. This was what he wanted to effect, and he trusted that his motion would prevail.

Mr. Marigny desired to offer his thanks to the honorable delegate who had preceded him, for the lively interest he appeared to feel in the welfare of the city, but at the same time could not agree with the ideas he had advanced as to the necessity of interfering with the apportionment of the senate as at present laid off. He is sometimes in doubt whether a division of the city has been beneficial, when he looks at the amount of debt which some parts of it are encumbered with. But he then stops, and comes to the conclusion that those who are the most interested in it must be the best judges. That point settled, let us now look at what the population of the three municipalities consists. According to the last census, the first municipality had fifty thousand, the second twenty-two thousand, and the third twenty-eight thousand. Hence I am bound (said Mr. M.) to come to the conclusion that a fair division out of four senators, is two for the first, one for the second, and one for the third. It will be then clearly seen that my views and those of the delegate from St. Landry are at utter variance: and that while he desires to do so much for us, he actually proposes nothing at all, unless he wishes that the ten or fifteen thousand floating population from Europe and the northern States, who inhabit the second municipality, like so many birds of passage, should swell their vote to the injury of the other two municipalities. He (Mr. Marigny) thinks it better in such a case, and fairer towards all to let each municipality elect their proper proportion of senators, as provided for already in the section, for assuredly if the principle contended for, of electing the senators by general ticket prevail, the first and third municipalities will be sacrificed for the benefit of the second, and he will oppose any measure calculated to bring about that result. We have never interfered with the country districts; why then should they interfere with ours? They separated the two parishes of East and West Feliciana, because they said their interests required it. We acceded to it. Then why should they not allow us to do the same thing, when we show them that the interests of the three municipalities are not only not identical, but antagonistical in some respects?

Already have we heard murmurs of dissatisfaction at some of the provisions of our new constitution. It is not in the province of this Convention to sow the seed that will increase such murmurs. Let us rather avoid such a course, and carry our work to a successful termination. We cannot do it by increasing the difficulties, and we shall assuredly do so, if we pass any unjust provision as to the rights of any of the municipalities of New Orleans.

On motion of Mr. Roselius, the Convention adjourned until to-morrow morning at ten o'clock.

Saturday, April 5, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer.

Mr. Downs called the attention of the

house to the imperfect manner in which some of the official reports of the debates were made. The evil had become intolerable. Neither the language nor the ideas of members were given He referred particularly to the debates of the 31st March. If the public were to take these debates as a faithful narration of what took place in this body, they would form a very humiliating idea of its proceedings. They would infer that its members were in a constant struggle. Language was put in the mouths of members that never was employed by them—that gentlemen never used, and which gentlemen could not use. He did not know what to suggest; but it was manifest that some remedy ought to be employed.

Mr. Saunders said, in the few remarks made by him on the 31st March, his reasons were not such as were assigned to him in the reports of the proceedings of that day. He never said what is there imputed to him. He never said "that it was evidently a political combination for political purposes." What he might have said was this, "that it might bear possibly that appearance."

Mr. M. Taylor said that these reports went before the people, and some greater reliance was placed upon them from the fact that they were prepared by officers especially appointed by the house, to consign what actually took place—to give, if not the precise words, at least the arguments and opinions of members as they were delivered. It was unpleasant to complain, but in the present instance it was impossible for a member to recognize in the printed debates of the proceedings, the remarks he may have made. It was impossible, in point of fact, to assign the paternity of these remarks to the individual to whom they were attributed in the report. In the debates of the 31st March, his (Mr. Taylor's) arguments upon the subject of senatorial apportionment were not such as were reported. In the printed report many things that he did say were omitted—some things he did say were perverted—and the language employed to convey his meaning was ungrammatical. In five lines he was made to make two assertions that he never made. He never said "he was satisfied with the apportionment"—that "it was the feirest that could have been made." He did not say, with the facts before the house, that it was absolutely unfair, but he certainly did not make the contrary assertion.

Mr. C. M. Conrad was satisfied that it was impossible for any one but a stenographer, to take down the debates with that accuracy which was essential. As soon as he had learned that the gentlemen employed were not stenographers, he was disposed to do away with the reporting of the speeches altogether. He had no doubt that the individual complained of, had done his best; but, it was exceedingly difficult to make correct reports, without a knowledge of stenography. At first, he had been in the habit, occasionally, of looking at the speeches made. He was convinced they were as well done by the first reporter as they could be done by any one not a stenographer. Of late, he had not looked at the report of the debates, and he knew not how far he had suffered, but presumed he had not shared a better fate than other gentlemen.

Mr. Roselius: It is unnecessary to discuss this matter. Let us remove the reporter that has shown his incompetency.

Mr. Claiborne: The best course is to abolish the office. I think two reporters in English unnecessary, and that the duty would be better performed alone by the gentleman now reporting, who is fully capable.

Mr. Kenner said he was sorry to join in the out-cry raised against one of the reporters. But in the debate referred to by the gentleman, he (Mr. Kenner) was made to say what in fact he did not in fact utter, and, he should be sorry that the impression should be taken up that he employed the language attributed to him.

Mr. Ratliff suggested that it would be better for the reporters to submit the debates to the members who may have spoken, in order to be revised by them. This was the course pursued in congress when set speeches were made by the members. It was very difficult to report the remarks of gentlemen that spoke with the fluency and rapidity of the delegate from New Orleans, (Mr. Benjamin.) Sometimes too, he (Mr. Ratliff) remarked that some of the best speakers in the Convention, made use of phrases or expressions that were not strictly parliamentary. In

reference to himself, he paid no particular attention to the manner in which his remarks were reported. But he remembered, on one occasion, upon looking into the reports, to have seen an anecdote related by him, so distorted as scarcely to be recognized by himself or those of his constituents to whom it was familiar.

Mr. Claiborne remarked that there was but one French reporter, and that he performed as great a labor, and in one sense a greater labor, than the English reporters, inasmuch as he had to translate what was said from English into French. He conceived that the first reporter would perform the duty of reporting much better alone.

Mr. Lewis complained, that for some time past, not a solitary speech delivered by him had been reported as he had spoken it. The report of the first of April, made by Mr. Kerr, contained the substance of what he might have said, pretty much in the same style as the letter writers at Washington would have employed to have announced the debates upon some question that was agitated in congress. His arguments were not given. It was his deliberate conviction that the reporters were too lazy, or were unwilling to perform the duty assigned them. If this were so, where was the use of keeping them? The publication of some of these reports were calculated to place the members of the Convention in a ridiculous point of view. To make them appear like school boys at the hornbook—as uttering the veriest nonsense—the most trifling puerilities; and all this not only appeared in a public paper, but likewise was consigned in a book form which would doubtlesss figure largely hereafter, as the proceedings of the Louisiana Convention! Truly, we were making ourselves an object of ridicule by these reports! He would renew the motion of the delegate from New Orleans (Mr. Roselius.) One of the reporters was utterly incapable of performing the duty. He made us say the reverse of what we actually said, and that in a language by no means remarkable for its accuracy. I doubt not, continued Mr. Lewis, we are laughed at for all this jargon and nonsense, as we would deserve to be, if we were indeed guilty of uttering it. It is a tissue of nonsense! Mr. Kerr was tolerably correct, and at first I was satisfied with his reports: but of late he has become remiss. I believe him capable, and hence I do not include him in the motion; I trust for the future he will be more exact.

Mr. Beatty said he considered Mr. Kerr not much more correct than the other reporter. He had endeavored at first to have him removed, but having been unsuccessful, he had not troubled himself of late much about the reports. Before the appointment of Mr. Ilsley, he had in several instances remarked Mr. Kerr's report of his observations, and his meaning, as well as his language were totally perverted. He certainly bore that gentleman no personal ill will. He had no particular acquaintance with him. He did not believe the reports were correctly done—that justice was done to the proceedings of this body. For that reason he hoped that both reporters would be discharged, not only because they were both incompetent, but for the purpose of perventing them from being elected in a similar capacity by either of the legislative bodies.

Mr. Soule said, that if there was a member of this body who was authorised to complain before all others, that member was himself. It was not often that he troubled the Convention with any remarks. On the only occasion that he had spoken, what he had said was reported by a bad translation from the French, in which it was impossible to discover the traces of any of his ideas. He had consoled himself in the humiliating position in which he was placed, by the reflection, that the production bore upon its face what it really was, and therefore he would not be held accountable for its glaring defects. At the same time, he admitted that some excuse might be urged for the reporter to whom he alluded. He believed that it was from no want of zeal, nor from any indisposition on his part to give satisfaction. He thought that there was a means less harsh to attain the object proposed by gentlemen. Let us lay the resolution on the table, and if by Monday or Tuesday next no remedy suggests itself, it will be time enough for us then to act.

Mr. Wadsworth said that his eye happened to fall upon some remarks purporting to have been made by him on the 31st. He would read the following extract. Comment was totally unnecessary.

"He (Mr. Wadsworth) thinks the delegate from Ouachita does not meet the question properly, nor in the proper spirit. He says all those who have two, may be interfered with. Now that is not the way to meet a question like this; we want permanency, we want it fixed distinctly and permanently."

Mr. SOULE: I ought to add, that in what I have said, I refer neither to the reporter in English that was first elected, nor to the reporter in French, whose reports have been faithful and exact.

Mr. CLAIBORNE suggested, that as these reports were to be consigned to posterity, whether it would not be well to require the acting reporter to revise and correct them.

Mr. C. M. CONRAD replied that it was too late to make any corrections.

Mr. SOULE's motion was then adopted, laying Mr. Roselius' motion upon the table.

ORDER OF THE DAY.

Apportionment of the city into four senatorial districts.

Mr. ROSELIUS said: Mr. President—Having the misfortune to differ with two of my colleagues in opinion, upon the subject under debate, I deem it proper, in a few brief remarks to state the grounds upon which I base my views of this matter. I consider, sir, that New Orleans is one city; that the interest of one part is the interest of the whole city; that what conduces to the benefit of one part, necessarily conduces to the benefit of the whole. I can safely assert that the greatest curse that has ever fallen upon this city has been its division into separate municipalities.—That division has caused more evil, and has done more to prevent the development of the interests and resources of the city, than any event that has ever taken place. If it were necessary to enter into a minute investigation, it would be no difficult task to show the awful results that have flowed from that unadvised and impolitic measure. A thousand evils have resulted from that circumstance. I do not believe there is a reflecting man, expressing his sincere convictions, that would not agree with me, that it has done more mischief than any thing else. Can any person reflect seriously and say that a city situated like New Orleans ought to be divided in policy, in government, and in interest? Can any honorable gentleman refer to any act of general legislation in which the interests of the city clash, and in which one part of its interests are adverse to another part? I have reflected in vain to discover any subject of general legislation in which such a conflict may arise.

If there be no conflict, no clashing of interest, why destroy further the unity of the city? Why divide it into three senatorial districts? What is the object of this division? What is the design of having a senate at all? The design is, that its members being selected by a larger constituency, and it being composed of men of more matured age, they will not be operated upon by local considerations; that it will take a more enlarged, a more comprehensive view, and that it will therefore operate as an effectual check upon the hasty legislation of the lower house. That is the reason; that is the principle why the legislature is divided into two branches. If you then subdivide the city into three senatorial districts, you establish no material difference, so far as the city is concerned, between the upper and lower house. You make the senate superfluous. Where is the necessity of having the two houses if the constituency are to be identically the same—if both bodies are to represent the same number of persons, and the same local districts? These are but elementary principles, which lie at the foundation of government itself. My honorable colleague (Mr. Mayo) adduced yesterday, what he supposed to be strong arguments in favor of the division of the city. I think that his arguments favored the converse of the proposition. What did the honorable gentleman say? He said that he had opposed with all his might the division of the city into districts, for the election of members to the house of representatives. That he deplored that division as a great evil. That it was a wrong inflicted upon the city, forced upon us by the delegates from the country. That it was done under the pretence of dividing the concentrated power of the city. He concedes all this. He concedes that the division was impolitic and inexpedient; that it is an evil. If this division be an evil, and that he admits, how can any man in his senses say that the division of the city for its senatorial representation is not

a like evil? If you are opposed to one; if you think it prejudicial and pernicious, how can you consistently approve the other, which is still more pernicious and prejudicial? The arguments of the gentleman (Mr. Marigny) were strong, but they did not lie in support of his position. They established the very reverse. Gentlemen from the city very properly opposed the division of the city into nine representative districts. They raised a clamor, and did so very properly, because that measure was eminently calculated to injure the city; to destroy her proper weight in the councils of the State. How can gentlemen that took that ground, now say that it is promotive of the welfare and well being of the city to divide her into three senatorial districts. They were opposed to dividing the city into representative districts, and are yet in favor of dividing her into senatorial districts. The fallacy of such a proceeding is too palpable to require argument. It lies at the very surface. It is obvious and palpable. It scarcely requires reflection.

Has any thing been advanced by those of my colleagues with whom I have the misfortune of differing upon this question, showing that it is to the interest of the city to be divided into senatorial districts? They say that one municipality, (meaning the second,) may obtain an undue influence.—The gentleman (Mr. Marigny) uses that argument, but he forgets that his assertion is destroyed by the very figures he employs to sustain it. He tells us truly that the first municipality has a population of fifty-thousand souls; that the second has a population of twenty-two thousand souls, and the third a population of twenty-nine thousand souls. Now, sir, I would ask, does the relative populations of the three municipalities afford any just grounds of apprehension of the overwhelming and absorbing influence of the second municipality? How do the facts stand as to the disposition or the power of that municipality to control the other two, up to the present time? The city has in this body eleven delegates, chosen without reference to party politics, and there is not a single delegate residing in that municipality. And yet we are told that we must guard against the overwhelming influence of the second municipality! Here are the plain facts, in opposition to the theories of gentlemen. They cannot be controverted.

But the gentleman (Mr. Marigny) has dwelt much upon the progress of the second muninipality. He thinks it will outstrip the others. I do not take that for granted; and if I did take it for granted, is there any thing wrong that the greatest numbers, and largest amount of property, should have the controlling power? Let us be consistent. Let us not squabble upon illusory apprehensions. I do not own one inch of ground in the second municipality; all my interests are centred in the first; but I should consider myself unworthy of a seat in this body were I to permit myself to be governed by sectional considerations, if I were to suffer them to influence a single vote of mine. I am opposed, irresistibly opposed, to any further division of the city for any purpose.—And why should it be divided at all?

The basis of apportionment fixed for the senate is total population. For the purpose of circumscribing what is considered the undue influence of the city upon the legislature of the State, it is prescribed that she shall not have more than one-eighth of the representation in the senate, when, in point of fact, she is entitled to upwards of one-third. But we do not complain, and we submit so her being curtailed. We have made that concession. We have consented to take one-eighth in place of one-third, to which we are entitled. Is not that enough? Must the four senators allowed to the city be divided among the three municipalities? If gentlemen consider that justice, their ideas of justice differ from mine. The result of such a division will be, that the city, as a city, will no more be represented in the senate, than she will be in the house of representatives. The representation from the nine representative districts of the city will be nothing but a local representation. It will represent only the particular representative district. Where will the city be represented as a whole, as an unit? No where. The city will not have a single representative. You split us up into nine representative districts for the house of representatives, and then, where at least the city should be represented as an unit, in the senate, you go still further, and divide the city into four districts. I ask, and insist upon an an-

swer, where is the justice of such a proceeding? Shall this vast city, with all her important interests, be without a representative in either branch of the legislature? A city which is constantly enlarging, and whose great resources are developed from day to day. This seems, of all the measures yet attempted against the city, the most oppressive, and the most unjust, not even excepting the ban placed upon her by which she is disqualified from ever again becoming the seat of government. I know of none so utterly opposed to every notion of justice that I have formed.

Another objection (said Mr. Roselius) that I have to the division of the city into several senatorial districts, is that this division of the State into senatorial districts, is no temporary affair. It is to last—it is to continue, and the increase of population in one district of the city will not entitle it to any augmentation in its senatorial representation. Will that be just? I doubt much whether any gentleman will pretend to say that such a result is consistent with justice or equity!

But it is said, or intimated rather, that in the fluctuation of parties, one of the political parties may get in the ascendant, and deprive the other party of all chance of entering the senate. I disclaim all considerations of this nature. In opposing the division of the city for senatorial districts, I am not influenced by any party motive. I oppose it because I consider it like all other divisions of the city, fraught with incalculable evils.

With the view of satisfying all objections, and to obviate the apprehensions of some gentlemen that the result of the general ticket system might be, that all four senators would be chosen in one municipality, I will propose a proviso to the proposition of the member from St. Landry (Mr. Lewis) that one senator shall be taken from each municipality—the whole four to be elected by general ticket, as proposed by that delegate.

Mr. Roselius then offered his amendment.

Mr. Soule: I expressed upon a former occasion what were my views and opinions in relation to the question now before the house. I have since that time seriously reflected upon the measure proposed by the delegate from St. Landry, (Mr. Lewis) and which is supported by the gentleman that has just resumed his seat. I have examined the question without reference to political considerations, and I may claim without vanity, the merit of never having interfered in the political questions that have been discussed in this body. I could not bring my mind to that standard of political feeling which would govern my vote upon any question that might arise in our deliberations. I do not impute political motives to any; but for myself I may say in truth and sincerity, they do not weigh with me a feather!

The first question we should resolve seems to be what is the basis of apportionment for the senate. One would naturally conclude from the discussion that has taken place, that what has been done, has been destroyed, and that we have assumed a different basis from the one we adopted. The logical powers of the gentleman (Mr. Roselius) have in vain been employed in favor of any other, and the attempt to connect any other with the question of large districts, cannot have any weight in influencing our judgments. Sir, the great question of property—whether mind or matter should be represented, is at an end. It is beyond the discretion of this house. We have adopted the basis of electors for the lower house, and total population for the senate. Here we have a *point de depart.* We are to determine according to the personality and not according to territorial extent. We are not called on to make an apportionment in reference to territory, but an apportionment in reference to personality. Now, sir, in establishing the divisions in the apportionment to be made, it is a safe and sound rule, to establish them according to the natural divisions which that personality presents. The question then resolves itself into this: Has the personality of New Orleans but one feature, which is so identical in all its parts, as to have but one interest to be represented? If this be the case, then I yield the point! It has been said that New Orleans is but one city. I shall not wage war with names. It is true that it constitutes but one city. But do you know what that is owing to? Its existence under its name of New Orleans, has been constitutionally secured. Otherwise that would have been destroyed. At one time, the

city of New Orleans was but a single corporation. At the time to which I would allude, the second municipality, as the faubourg St. Mary, had scarce begun its progress. The old corporation was the richest body that ever existed in the United States. Yielding to considerations of the general prosperity, and with unexampled liberality, that corporation divided its treasures with the rising faubourg. But how was it recompensed? It was despoiled of its treasures. Its immense wealth was swallowed up in the improvements of that limb of the city, and when it was reduced to a skeleton, to use the language employed by my friend yesterday, and had nothing more to give—when all its means had been exhausted for improvements, it was then suggested by that section which had been so liberally favored, that the city be divided, and at its pressing and assiduous solicitations, that measure was effected. I remember (said Mr. S.) that in 1836, when a large portion of the means of the old corporation had been absorbed in the making of wharves in the second municipality—when many of its streets were paved, there was not a stone in Royal street! I should suppose that the fact that the division of the city was asked for and was determined upon, is conclusive that there was no identity of interests. Or else why was it demanded? By whom was it sought for? By the second municipality, and it was resisted by the city proper as far as resistance could be available!

It was accomplished, and the very first step was an act of most glaring injustice to the old city. The very lines of its corporate limits were changed; they extended as far as Common street, but by the act of separation, the boundary was run from the middle of Canal street, from the river to the lake. Ever since that period, all the zeal of the second municipality has been enlisted, and it has struggled with herculean power to draw all the advantages from the old city. Instead of one city, by the act of division, we have three cities. The part of New Orleans has been changed and carried up to the borders of Lafayette. The natural consequence of the division into separate and distinct municipalities, has been to excite a feeling of rivalry, which has reached a point where there is no identity of interest between them. Far from me to say or to intimate one word in disparagement of the inhabitants of the second municipality. They have advanced with giant strides. I admire their energy and indomitable perseverance, and what I wish is, that the old population which is so fast receding, would only be stimulated by their example! But I cannot consent that the second municipality have absolute sway over the two other municipalities—that she should absorb and engross to herself their political power, without attempting to avert the calamity.

Now, sir, I wish the Convention not to lose sight of the fact that this difference of interest is not the only difference between the three municipalities. It has been asserted on this floor that there is another difference. That the municipalities are not inhabited by identically the same population, and that is true in some respects. If total population be the basis, how can it be expected that populations said to be so different, can be represented by a general ticket? It is a fundamental principle, that all interests should be represented in a political community; that all are entitled to protection. I would rather yield that protection to those most in want of it! When I say this, I speak relatively; for one of these municipalities will always be able to take care of herself! When the others may need protection, they must look for it elsewhere!

I have said before, that in the political contests, three distinct features distinguish the three municipalities. The third municipality is quiet—without excitement, and with little disposition to intermeddle. The first municipality, as you progress up, step by step, presents features of greater excitement, and in the first ward, approaches nearest to the second municipality. In the second municipality, the art of manufacturing voters is a perfect system: it is reduced to a rule, and the *savoir faire* is well understood. No human art can baffle these designs upon the ballot box!

If it can be shown that the second municipality is entitled to two senators, let her have them. Let her be represented equally with the first municipality. If this can be established, I shall be up among the very first to sustain her pretensions? If the first and third municipalities were to have but one senator, that one

would, at least, represent their interests and be responsible to them?

Now, sir, what is the object contemplated by electing the five senators by general ticket? I will not say that a political object is sought for. I am disposed to place it on a different footing. We have been told that the division of the city is the greatest curse that has ever been inflicted upon the city. I have always been of that opinion. But the thing is accomplished—it is done. It was consonated despite of the protestations of the city proper, and it defeats all the arguments that have been adduced by my friend and colleague, (Mr. Roselius.) It overcomes all his logic: for it is a fact, and what he urges are but theories! How can the election of the four senators by a general ticket restore to the city that unity which was destroyed by its division into municipalities. If I can only be convinced, that it will have that marvellous effect, I am ready to yield all my objections! If you cannot show this, your position is lost! It cannot be shown. The interests of the municipalities are different, and their populations are perhaps different.

In less than two years, I predict that if you sanction the general ticket system for the city, the five senators will be elected by the second municipality.

But, we are told that the evil we apprehend will be destroyed by the proviso of my colleague, (Mr. Roselius) which renders it imparitive that each of the municipalities shall be represented in the senate. How can you constrain the electors to such a condition, and what will be the remedy, should they refuse to obey? Moreover, is it not well known, that the second municipality are not those that reside within the limits of that municipality. Many of its best friends are found in the first municipality, who have at heart its interests as much as its own inhabitants: whose property and whose interests are identified with the second municipality, and who are ready to serve it upon all and every occasion. We are asked to be generous to the second municipality, to commit to it for the future, the opportunity of electing all four senators, because that municipality has no representative upon this floor. I admit that the second municipality has no representative upon this floor that actually resides within her limits. But I deny that this is any disadvantage. In the apportionment to the city, out of nineteen members allotted to the city, the first municipality, with a population of forty-three thousand five hundred and forty-six, obtained eight representatives; the second, with a population of nineteen thousand two hundred and thirty-five, obtained seven resentatives; and the third, with a population of twenty-six thousand eight hundred and forty-three, obtained four representatives; when by all the calculations, the second municipality was, in point of fact, entitled to but five, and at the utmost six representatives. I was the only one in the delegation that voted against allowing her one member more than she was by any calculation entitled to. So that it will be seen she effected more without a direct representation, than if she had actually had a majority of the delegation from her own border. We should not be generous, but be just. The census had to be made, and if there had been any blunder, any mistake, it would have been time enough to have given her the additional representation when it was shown she was really entitled to it.

I cannot see why the second municipality should complain of the part allotted to her in the senate. The first municipality is allowed two senators; the second one, the third one. Is that distribution just? The only data that we have are the statements prepared by the delegate from Lafourche (Mr. Beatty.) From this data, and inasmuch as the Convention have assumed total population as the basis for the senate, it is clear that the first municipality is entitled to two senators, and if either of the other two have a right to complain, it is the third municipality; her total population exceeds by eight thousand that of the second, and exceeds by five thousand, more than one-half the total population of the first. I was the only one in the delegation that contended in favor of giving the third municipality one more representative than she actually obtained. But it was decided to give it to the second municipality, notwithstanding all I could urge. The third municipality is satisfied with one senator—why should not the second be satisfied with one senator? The reason is obvious. She has not before her the same brilliant future,

and the same hopes. I repeat it with confidence. We ask nothing that is not just, and for that reason I entertain not a doubt but that the members of this body, upon reflection, will appreciate the justness of our demand. They will the more readily do so, if they bear in mind one consideration, to which I shall briefly advert. The first and third municipalities are occupied by a scattered population; they are the remnants of those that once alone occupied all the extensive territories of the State. They have yielded to the new population that have overflowed the land, and whose activity and energy have raised the State to so high a degree of prosperity. But in ceding, they are still there, and as American citizens, they have a right to be heard and consulted. Will this house turn a reluctant ear to their demand through me, that they have the privilege conserved to them of being represented by those they may choose to delegate?

Mr. CLAIBORNE said he rose not for the purpose of participating in the debate, but to make an explanation which was rendered necessary by some remarks of his colleague (Mr. Soulé.) I understand that delegate to say that he was the only member of the Orleans delegation who, when the question of dividing the city into representative districts, raised his voice. . . . .

Mr. SOULE: I did not convey my meaning, in all probability. What I intended to say was, when the distribution of the twenty representatives to the city was referred to the Orleans delegation, I was the only one that claimed an additional representative for the third municipality.

Mr. CLAIBORNE: It was upon that very point that I desired to set the gentleman right. The basis upon which the distribution was made was the basis of electors, and I was compelled to accede to less than I would otherwise have claimed, had not the figures been decidedly against me. It is well known that the basis of electors is peculiarly unfavorable to the third municipality, from the fact that a large proportion of the free persons of color have taken refuge in that municipality, and that the mass of the white population, among whom are several old families, and the proprietors of a great number of slaves, whose labor supports them. In addition to these causes, there is another. There is a large proportion of the population that are aliens, and have not yet been naturalized. Of course, they have no right to vote. The number of electors from these causes, bear a less proportion to the population in the third municipality than in the second municipality, and that was my reason for consenting to give a greater representation to the second municipality. That municipality, upon the basis of electors, was entitled to it. If I had consulted only my affections, I would have been ready to insist upon more than the third municipality has obtained; for it is in that municipality where I reside, where are my children, and from which I had the honor of being chosen a delegate to this Convention. But before all, I considered that I was bound to consult the immutable principles of justice, and to be actuated in this, as in every other official or private act, by its dictates.

Mr. C. M. CONRAD said, it was unpleasant for a delegation representing the same interests, and sharing the same responsibilities, to differ in opinion in representing those interests. The first impressions he had formed were against the proposed division of the city into four senatorial districts. His matured reflections had confirmed those impressions. He thought he might claim some impartiality for his views upon this subject. He had resided all his life in the first municipality. He had received repeated marks of confidence from every section of the city, and particularly from the third municipality, with which he had been less connected by personal and other associations. And if there were any portion of the city which has particular claims upon him, and to which he felt peculiarly grateful, it was the third municipality. But he felt that he would be unworthy of a seat in this body, of a place in the city council, or in the humblest collection of his fellow-citizens, if he were to allow sectional preferences to sway his judgment. He felt that he was here the representative of the whole city, without reference to arbitrary distinctions for local purposes. The gentleman that has argued this question, in favor of local districts, (Mr. Soulè,) has assumed the anomaly that New Orleans is three cities. I must differ with my colleague upon that point. New Orleans is not yet three cities,

although the whole course of proceedings on the part of the Convention have a tendency to effect that result; to divide it in interest and in feeling, and to divide it in the policy that it ought to pursue. It ought to be but one city. Would any stranger, in passing from its upper to its lower limits imagine that it was three cities? Would he, while standing upon its levees and viewing its magnificient and capacious harbor, teeming with the wealth of the western world, and while gazing at its fleets of vessels, with the flags of every nation, consider it three cities instead of one? It is but one city! united by a common interest, by a common pride, and he hoped that the period was distant, far distant, when it should be divided. He wished that its division would never be realized! The sectional divisions into municipalities had been perhaps the result of a distinction of races, which was increased by some real, but in most cases, by imaginary differences, and stimulated by party feelings. The inevitable tendency of the present measure was first to break up the harmony and reduce the weight of the city. Why was it advanced by the country members, if it were not to weaken the influence of the city? For that purpose gentlemen from the country have attempted to thrust it down our throats, that New Orleans has too much influence. I would ask my colleague, who differs with me, if the effect of this measure will not be to cripple the city in the senate, as she has already been crippled in the house of representatives by a similar measure? New Orleans has been curtailed in the senate more than one-half of her strength. She has been allowed four senators, when in point of fact she was entitled to ten! Is not this sufficient? Must she be further curtailed, and her voice be rendered still more ineffectual? Is she to be stabbed in her heart's core by a division into local senatorial districts? I cannot see the policy of such a measure. But I am told that there are conflicting interests in the city. If there be in reality these conflicting interests, will they not be represented in the house of representatives through the petty divisions into which the city is already divided? Must the senatorial representation from the city share the same fate? I would ask my colleague (Mr. Soulé) if the city has no interests, as a city, to be represented? May there not be measures introduced into the legislature prejudicial to the whole city? May it not happen that an attempt may be made to impose an unjust tax? The entire city may suffer. There are a variety of matters in which the city, as a whole city, are involved; matters of navigation, sanitary regulations, to prevent the spread of malignant and contagious diseases. Are not these some of the measures that may be effected by legislation? As for the apprehension that the local affairs of the city may be ever sacrificed, it is to be presumed that the local city council will take care of them. Besides, the very law which divides the city into three municipalities, ordaining a separate council for each, presupposes that there are general interests in the city, to be looked after. Ought there not to be some check in the senate, so far as the city is concerned, to protect her interests in that conservative body? There will be conflicts between the strong and the weak, and there should be some bulwark for the protection of the weak.

My friend on the right (Mr. Marigny) would hereafter see cause to deplore the districting of the city for senators, should it be carried. Does that gentleman think it will be more effectual to secure the representation of the lower municipalities than the system of a general ticket? Only let that gentleman reflect upon what has transpired for the last two years. It is a matter of but little moment where one senator may be temporarily placed. Where the mass of the population are, there will be the influence upon legislation. The new population is increasing, and the old population is decreasing. The upper portion of the first municipality will entertain sympathies and identities with the stronger portion. In the second municipality is an indomitable and active population—an active and vigilant press. These must give to it a decided advantage, if there is to be a separate and conflicting interest created. What would become of the allotment of one senator to the lower portion in the course of time? One must be blind, not to see that the tendency of population is towards the upper portion of the city. The basis of apportionment for the senate is total population. The apportionment is to be made at stated periods. Where will the mass of

population be in the course of a quarter of a century? The election by general ticket is for the advantage of the whole city. It will combine and concentrate its interests from one municipality to another. The third municipality will concur in the election of the four senators, and that in point of fact, will give it more influence than were it to elect the fractional representative of one. Let us look at the past to enlighten us as to the future! Let gentlemen look at the State senate for a series of years. From what portion of the city came the senator from the parish of Orleans? Look at the composition on this floor of the delegation from this city? We find that the third municipality has four out of the eleven delegates—the balance are from the first municipality, and not one from the second municipality. Has the upper portion of the city ever sent a senator? Mr. Hoa, a distinguished gentleman, whose loss was so deeply deplored, was elected from the first municipality, and was the senator for a series of years. He conciliated friends and supporters in the three municipalities, and was invariably returned. The third municipality would have more weight by participating as heretofore with the others, than if she were allowed a separate senator for herself. This is not produced by a feeling of liberality. It cannot be claimed as the result of mere magnanimity. It has a more certain and inevitable foundation. It is based upon what all legislation should be based, upon human nature. As long as you consult human nature in legislation, you are sure to be right. Majorities will always consult minorities. They are anxious to get the vote of the minority.

I heartily concur with the gentleman (Mr. Soulé) that it is right to protect the weak in preference to the strong. I think it ought to be done, but we differ materially as to the means of doing it. If I were under the influence of sectional feelings; if I were animated by a preference for uptown, or a preference for down town—distinctions that I have always despised and ridiculed; and if I were desirous to see the second municipality obtain all the political power I would advocate and vote for the division of the city into senatorial districts, being persuaded that it would not be many years before that municipality would have the preponderating control, by the natural increase of her population.

The energy and activity of the new population—the Anglo-American race—are such, that as Napoleon humorously observed, if the devil had a dollar they would find it out! That energy would give the second municipality more weight without a representation, than the other two municipalities with a representation. If she were allowed by the present apportionment, but one senator, it would not be long before she would be entitled to two; then to three, and finally to all. If this course were taken, the second municipality would become entirely alienated from the other two. She would have no feeling in common with them, and it would then be too late to expect her sympathies. These attempts to divide the city and to excite sectional jealousies, have no other effect than to widen the breach that was unfortunately opened between the municipalities, and which were, I think, about closing. It is calculated to disturb all the harmony that yet remains among them, and to sow the seeds of discord and jealousy. There is nothing to protect the lower municipalities against the consequences of the overwhelming growth of the second municipality, unless the city be kept together. It has been but one city for the last thirty years, and has had but a single senator. Have gentlemen had cause to complain that the voice of any section was stifled? That the second municipality has monopolized the representation. Has any part of the city suffered for want of protection? As far as my personal experience goes, the representatives of the city have felt that as they were elected by the whole city, they were bound by a sense of duty and of power to sustain the interests of the whole city, and to discard all sectional feelings. They have maintained with equal fidelity the interests of every portion. They have conciliated these interests when they were supposed to conflict, for it has happened, that where the prejudices of the community inferred that there was a conflict, in point of fact, there was no conflict; and if it be well understood, the interest of one portion of the city will be found to be the interest of the whole city.

The three gentlemen who have spoken upon the subject, have held one language

upon the division of the city into three municipalities. They have pronounced that division to have been a great calamity. Will it be pretended that if the division of the city into three municipalities is to be considered an evil, that the division into senatorial districts would be a benefit? I was not a member of the legislature when the act was passed dividing the city into three municipalities. But I remember some of the motives that were alleged as calling for its passage. The people of the upper portion of the city had complained for some years that the revenues of the city were not distributed with equal justice. That these revenues were divested exclusively for the lower portion of the city. I do not pretend to say that these complaints were well founded. But such were the complaints, and such were the motives that led to the division of the city. It met with little or no opposition from the members of the house, nor from the member of the senate. I believe that Mr. Hoa was then the senator. I am unable to say whether it produced all the mischief which has been attributed to it, in this discussion. I remember that it met with my support, and I am sorry if the results have proved detrimental. The motives that influenced me in favoring it were, that there were collisions of interest and collisions of feeling, that rendered the city council an arena of strife; and that it was better that each section should regulate its own affairs. If mischief has actually resulted, it proves, what I have asserted, that the interests of the city may be promoted or destroyed by legislation; and that the ground assumed that the representation in the senate for the city may be divided without injury to the city, is repugnant to reason.

Some allusion was made in the course of the remarks of the honorable delegate (Mr. Soulé) that the second municipality had obtained more than her share in the lower house. I have a few words to say in reply. The Convention, contrary to my views, established the basis of electors for the apportionment in the house of representatives. The only criterion that we had was the returns of the last November election. On account of the allegation of fraud in that election, these returns were looked upon with suspicion and distrust. The gentleman (Mr. Soulé) has said that the second municipality is possessed of peculiar skill in manufacturing voters. I think, unfortunately, that no portion of the city can boast a superiority in that line. We were induced to throw under these returns, and to take up another vote. We took up the returns of the senatorial election which resulted in the election of Mr. Slidell. That vote was least favorable to the second municipality, and most favorable to the third municipality; upon it we apportioned the representation of the two municipalities, and it was admitted by one gentleman that the third got one more representative than it was entitled to. As to the present apportionment, I consider it of no moment. It is temporary in its nature, and the next apportionment will correct its errors. To return to the question before the house, I protest against this division, at this or any other period; and if I were to indulge in prophecy, which I might from having paid some attention to passing events, I would predict the unfortunate consequences which would result from this fatal error, were the Convention to fall into it.

Mr. Benjamin said that if the vote was now insisted upon, we would be involved in the same difficulty that attended the proceedings of last Saturday. Instead of making any progress we would be retarding our proceedings. If the vote was taken at a time when the will of the majority could be ascertained, there would be a willingness to abide the decision. He would, therefore move the adjournment until Monday at the usual hour.

Mr. C. M. Conrad gave notice that in the event that the proposition was adopted, dividing the city into four senatorial districts, he would move for the reconsideration, so that five senators may be allowed. He considered that five senators, parcelled out in the way proposed, would not be as efficient as four senators selected at large from the whole city.

Whereupon, on motion, the Convention adjourned.

Monday, April 7, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

ORDER OF THE DAY.

Motion of Mr. Lewis to strike out that

portion of the section dividing the city into senatorial districts.

Mr. CHINN said that he did not know whether the debate would be continued, but he was about to propose a thing that was unpleasant. This question had been twice debated, and he presumed every member was prepared to vote upon it.—This motion was viewed as an odious one, and sometimes it is. But a moment's reflection would convince members that we were wasting the time of the Convention uselessly. I have risen to move the previous question.

Mr. EUSTIS would request the gentleman to defer his motion for an hour.

The question was postponed until one o'clock.

Mr. SPLANE offered a letter from Mr. Ilsley, explanatory of the causes of certain inaccuracies in the reports of the debates.

Mr. CLAIBORNE moved that it be read.

Mr. SPLANE moved that it be placed upon the journals. If the remarks made by members preferring complaints against Mr. Ilsley, as the reporter, were published, it was nothing but justice that Mr. Ilsley's communication were placed upon the journals.

Mr. C. M. CONRAD thought this course was hardly necessary. Some five or six members of the Convention have considered that they were incorrectly reported.—The reporter thinks he has reported them correctly. In a question of this kind, the members are more competent to judge whether they be correctly reported or not. Whether the facts stated by the reporter are sufficient to exonerate him, is a question for the Convention to determine, and particularly the gentlemen who have complained.

Mr. SPLANE said that his reasons for moving that the letter of Mr. Ilsley be spread upon the journals were, that the remarks made by members referring to the inaccuracies of his reports, would be published, and it was but just that Mr. Ilsley's vindication should be made a matter of record. He had the proof to shew that Mr. Ilsley had appointed a substitute to act in his stead when the reports complained of were made. He hopes that justice will be done.

The motion failed.

Mr. CULBERTSON then moved to lay Mr. Ilsley's letter upon the table, subject to call.

Mr. SPLANE then handed in Mr. Ilsley's resignation; which was accepted.

Mr. CLAIBORNE then moved to abolish the office of second reporter.

Mr. SPLANE moved to lay this motion on the table, subject to call; which motion was lost.

Mr. DOWNS opposed the motion to abolish the office of second reporter. We had had a great deal of trouble with printers and reporters. The reports were now nearly up to date, and by continuing the same system, and by getting a good reporter we would be enabled to have our debates published daily.

Mr. DOWNS called for the yeas and nays upon Mr. Claiborne's motion to abolish the office of second reporter.

Mr. BENJAMIN said that the debates were published in French with remarkable accuracy. He was satisfied that the same might be done in English, by one reporter.

Messrs. Aubert, Benjamin, Boudousquie, Cade, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Guion, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mayo, Mazureau, Preston, Prudhomme, Pugh, Roman, Saunders, Scott of Madison, Sellers, Soulé, Stephens, Taylor of St. Landry, and Wikoff—29 yeas.

Messrs. Brazeale, Brent, Burton, Carriere, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, McRae, Marigny, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Taylor of Assumption, Trist, Wederstrandt and Winder—26 nays.

The Convention then took up the following section presented by Mr. Downs:

"In all future apportionments of the senate the population of New Orleans on the left bank of the river, descending, shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division, shall be the poulation entitling a parish or other senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the

divisor; and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise.—Whenever the election under a new apportionment shall have taken place, the seats of all the senators under the old apportionment shall be vacant without regard to the time they had served. All apportionments for senators made not in strict conformity to this section, shall be null and void; and after the census has been taken, and the general assembly convened, it shall not be competent for the legislature to do any business, except its own organization, until an apportionment is made in strict conformity to this rule, and all acts and proceedings of the then existing legislature, or any subsequent one, under an apportionment not in strict conformity to this constitution, shall be null and void.

Mr. Downs called for the adoption of the foregoing.

Mr. Marigny: I am opposed, Mr. President to this section, and will give my reasons for that opposition. Some strange things take place in this Convention, which would not perhaps occur if its proceedings were not for the most part carried on by fifty-five members, instead of being carried on by seventy-seven, as contemplated by law and desired by the people. There is a remarkable tendency to give power to the people that are the furthest, the remotest from the city. I may say, to give them a monopoly of the power. This is done under the alleged pretence that it is necessary to curb the city and to diminish her influence. We have been one month discussing the apportionment in the senate and house of representatives. We had finally reached the number of members of which the senate is to be composed. It was placed at thirty-four, and subsequently has been reduced to thirty-two. It is explicitly declared that no district shall have more than one eighth of the total number of senators. The city is doomed to have but four senators. I consider that as most unjust. I have been told that some feeling is exhibited against me in the second municipality because I am opposed to having but one senatorial district for the city of New Orleans. I have never hunted after popularity, but I have always sought to discharge my duties according to my convictions. I think that the two senators should be allowed to the second municipality. The restriction is placed upon the city in reference to her senatorial representation as in every thing else.—But what says the section under debate? It says, or rather it means, that the city of New Orleans is never to have the benefit of her surplus, but that it is to be taken away from her and transferred to other parishes that had not the requisite number to entitle them to a senator. The city of New Orleans is to be made the milch-cow for the whole State. She is not only to fill the public coffers, but she is likewise to fatten up the country parishes, by giving them senators.

The gentleman from Ouachita (Mr. Downs) uses his weapons when he has an object to attain with a great deal of dexterity. He brings up the same question a thousand times until he succeeds. Five senators ought to be apportioned to the city, to be distributed among the three municipalities. The population and wealth of the second municipality ought to be represented by two senators. The first municipality should likewise have two senators. But that will not be done. Reason and justice will fail of their effect. The surplus of the city will be denied to her. It will be transferred to Caddo or Bossier, or some of the other north-western parishes to give them additional senators. Such a course of proceedings are inconceivable; I cannot understand such a perversion of justice. The majority should remember that there is nothing durable but justice. Nothing that is unjust can be permanent; even in monachies themselves, justice must be observed or they will not stand. In France the monarchy of ten centuries was overthrown because justice had been sacrificed. In England the oligarchy were overthrown from the same cause. We are in a republic; the right of suffrage is to be extended, and representation is to be based upon suffrage. The city is destined to have two thirds of the whole population of the State. I cannot better establish the comparative increase between the country and city, than by referring to statistics. In 1804 the population of New Orleans was five thousand; the population of the balance of the State was forty thousand. The popu-

lation of the State at present is three hundred and fifty thousand, of which the city contains one hundred and twenty thousand. The progress of the city is much the greatest. In 1804 the population of the western country was quite trifling; it is now swelled and become very numerous; with the increase of the population of the west, will increase the population and resources of the city of New Orleans. She is destined to contain a population of five hundred thousand souls. And yet, with all this prospect of the increase of her population she is to be restricted for ever to four senators. Her surplus is to be carried to the fourth district, or Florida. This is the position of things in reference to the senate. How do they stand in reference to the house of representatives? There too, there is restriction upon the city. It is provided that the number of representatives shall never go beyond one hundred, and we have already apportioned ninety-eight. So that notwithstanding all that we have been told of the great concessions made to the city, we find that these concessions amount to nothing. The city is as effectually restricted in the house of representatives as she is in the senate. A ban has been placed upon her as the future seat of government. Restrictions, upon restrictions, have been piled upon her. The proposition before us is similar to those that have preceded it. The only thing, it is more glaringly unjust and oppressive. Is one portion of the State to be enriched with the spoils taken from New Orleans? gentlemen should not allow their passions to dictate to their judgment. If the constitution be accepted by the majority even, the contest will not end there. There may be a reaction that may menace the tranquility. This section is tempestive. It is informal. Machevel himself never could have invented such a principle. If it be not rejected justice is deaf, and it will be impossible to obtain from this house what is just and rational.

Mr. Benjamin moved to strike out from the word "single," in the tenth line, down to the word "otherwise," in the eighteenth line. He said he would object to this clause, because it forced the legislature to make nothing but single districts, except where gross inequalities should result; he thought other causes might operate upon the mind of the legislature. It was unwise to place this restriction upon the discretion of the legislature; as far as he was concerned, he was opposed to single districts, but he was not so tenacious of double districts as to require the legislature, imperatively, to make no other, for he thought that some discretion ought to be left to the legislature. If they see strong reasons to put two parishes together, or to form single districts, from causes that we may not now foresee, they ought to have the power to do so, and not be bound down to divide populations that have an identity of interest, and which do not desire such division. Some of the members of the Convention are very much opposed to single districts; I am among that number; others are indisposed against the formation of double districts. The legislature should not be bound down to either, but be vested with a discretionary power.

Mr. C. M. Conrad hoped that the motion made by his colleague (Mr. Benjamin) would prevail. There was great differences of opinion upon the double and single district system; some were in favor of double districts, and others were in favor of single districts. The Convention have combined the two; they have adopted some single and some double districts. This was the compromise that reconciled our conflicting opinions. But one gentleman, who is in favor of single districts, has introduced that principle which is hereafter to prevail for all time. I differ from that gentleman; I am as much in favor of double districts as he is of single districts; but I am not so wedded to my system as to wish to tie up the hands of the legislature; I desire to leave the matter to the wishes of my constituents. We have formed some double districts; according to the section they ought not to have been formed. If we adopt it, we decide that the rule is wrong, on the other hand, we have determined that there should be some single districts, where, perhaps, double districts ought to have been formed. For example, we have made two districts of the parishes of East and West Feliciana, which I cannot help thinking, would have been better united in a double district.

Mr. Downs said the object of the section was that no district should send more than two senators.

Mr. C. M. Conrad: why does the gentleman not say so in the section. The language of the gentleman will not convey that idea. I have no objection to incorporate that principle. I am not myself in favor of forming any districts with three senators. I hope that the gentleman will not insist upon his section, but will leave it discretionary with the legislature—for "sufficient to the day is the evil thereof." This restriction would limit and embarrass the legislature in making the apportionments; when they should be left free to determine upon the propriety and justice of making the districts double or single.

Mr. Downs hoped that the motion of the delegate from New Orleans (Mr. Benjamin) would not be adopted. The majority insisted upon taking one senator (said Mr. Downs) from my district, although I had every data to show that it had doubled in population. This is the only way to recover at the earliest time possible from the great injustice that has been done. I wish the apportionment hereafter to be made in the strictest manner. An iron rule has been applied to the parishes in my district, and it is but fair that the same rule should apply to all the other parishes. The principle in the section under consideration does not apply unless a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio. It is only in that case that parishes may be combined to give one, but not more than two senators. If we leave the power unconfined to give the number of senators, there is no estimating the fractions that may be combined together to give one quarter of the State more power than another quarter of the State. I wish to see nothing of that kind. The better rule would be that no district should send more than one senator. But there is some objection to this, arising from the difficulty of carrying it out. It could not be well done in some particular cases, and from necessity, some two or three parishes would have to be combined to form the district. The number of senators in such cases are by the section limited to two. The system of unequal districts is decidedly wrong, and very properly rejected by a large vote. Because if some of the districts be large and some small, the result would be that the small districts would suffer from the combinations and concentration of power in the large districts. It would operate most unequally. I have yielded a great deal to certain considerations when I have consented that two parishes may be put together in the formation of a district. Is not this the rule adopted by the Convention? We have decided that in some particular cases two parishes may be put together in the formation of a district, and two senators be allowed; but in general the Convention have proceeded upon the single district system, which I greatly prefer. The parishes of St. Martin and St. Mary have been formed into a single district, and allowed two senators. Lafayette and Vermillion have been combined and allowed one senator. Calcasieu and St. Landry—here we have one large and one small parish, and the same necessity may occur again—placed together, and two senators allowed them. There it may be necessary, because St. Landry is a large parish, and after being allowed one senator, has a large fraction remaining. But in reference to St. Mary and St. Martin, the necessity for establishing them into double districts, does not exist. There is no fraction remaining after allowing them one senator respectively. The only object of the section is to establish a permanent rule to govern cases where it may be necessary to form double districts, with the imperative provision that no district shall have more than two senators. Is there any thing wrong in that? There are great inequalities in the distribution of the senatorial representation. These inequalities have arisen from following imperfectly the census of 1840, which is by no means a criterion of the present population, particularly in the north-west. Another apportionment should be made at as early a period as possible, and in the strictest manner. I see nothing in the clause that is inconsistent with what we have done in relation to apportionment. We have created no district with more than two senators, and the clause is within that rule.

Mr. C. M. Conrad: I do not pretend to say that there is any thing very wrong in this clause. I only say that we are renewing a question that we had got rid of. The present apportionment is but for two years, and the gentleman wishes his opinions to be the rule for ever afterwards. I agree

that the section was the result of compromise; that those that favored large districts consented that small districts in particular cases, should be formed; and the advocates of small districts have consented that in some instances, large districts should be formed. That has been done at the instance of the delegation from the particular parish that wished to form a separate district, or to be united with another parish to form a double district. Why not allow the legislature the discretionary power to control the subject matter? The Lafourche, Attakapas and Opelousas parishes have been formed into double districts. It is impossible for us to know, with accuracy, whether they are within the principle of the gentleman's clause, and if we made the calculation now, the result might be very different in 1847, the period fixed upon for the next apportionment, and still more different in 1857. This clause will have the effect to prevent contiguous parishes from uniting when their people may desire it, and compel them to separate when they are united. Where is the necessity for this iron rule? Geographical position should be consulted, as well as population. It was that consideration that induced us, in part, to form the separate district of Point Coupée. Avoyelles was placed in the same district with East Baton Rouge, but when we reflected upon the difficulties that presented themselves in their difference of position, the design was abandoned, and each parish was formed into a separate district. There was strong reasons for connecting East and West Feliciana sa heretofore, in one senatorial district. But yielding to the strong appeals of the delegates from those parishes, we consented that they should be separate districts. The discretion ought to be left with the legislature, in order that they may consult the public wishes in the various sections of the country. I am in favor of double districts, and I am in hopes that the legislature will conform to that principle consistently. But what would the gentleman (Mr. Downs) say, if we were to reverse the position of things, and consent that single districts should be established until the next apportionment, and double districts for ever after. That is his proposition; the compromise is to exist for two years, and ever afterwards; his notions of single districts are to circumscribe the action of the legislature. I am against any such iron rule, based on population, without reference to natural causes. I hope that the clause would be rejected.

Mr. Roman considered it his duty to support the motion of the gentleman from New Orleans (Mr. Benjamin.) The qualifications for the electors for the senate were the same as those for the house of representatives. The only means that remained to give efficiency to the senate, and subserve the end for which it was created, to act as a check upon the popular branch, was that its members should be elected by a larger and more numerous constituency. If one parish is to be deemed sufficient, and is erected in a separate district, you destroy every distinction between the senate and the house of representatives, except the distinction in the duration of office, and the difference as to the period of eligibility to the one and to the other. The distinction of age is not sufficient, and indeed it is but seldom that it enters into the consideration of the electors; for nothing is more common to see men more advanced in age in the house of representatives than in the senate. If this system of one parish districts be adopted, the senate will be nothing more than the duplicate, the counterpart of the house of representatives. Both bodies will represent the same interests and the same feelings. Those that think that such a result is desirable, would facilitate its accomplishment, if, instead of providing for the separate election of the senate, they would provide that the number of persons necessary to form the senate should be drawn from the house of representatives, and be designated, nicknamed the senate. A body thus constituted would carry out their design just as well.

The consequences of small districts will be to destroy the checks and balances which have been deemed essential to the well-being and permanence of our system of government. The delegate from Ouachita (Mr. Downs) is mistaken, when he states that the Convention has shown a disposition to favor the creation of small districts. I think they have exhibited a contrary disposition. Out of the thirty-two districts that have been formed, only eight have been established as separate districts, to wit: the parishes of Jefferson, Rapides

East Baton Rouge, West Feliciana, East Feliciana, Point Coupée, Avoyelles and Natchitoches. We may, therefore, infer that the sense of the Convention is in favor of double districts, and that these eight single districts are but exceptions to the general rule. Particular considerations, too, militated in favor of their establishment; some of them were established as single districts in the old constitution, and strong local reasons were given why they should be so formed. I trust, said Mr. Roman, that it will not be attempted to carry out the exceptions, while the rule itself is overlooked. From the sparseness of our population, it must be obvious that it will be absolutely necessary to unite contiguous territory in the formation of these districts. The adoption of the section proposed by the member from Ouachita (Mr. Downs) can have no other effect than to establish as a rule the exceptions to a general principle.

Mr. Downs said he was induced to infer from the remarks of the delegate from St. James (Mr. Roman) that his proposition was not understood by that delegate. It did not contemplate alone the adoption of single districts, but on the contrary, it provided for the formation of double districts. From the very number of senatorial districts, it was apparent that districts of a single parish could not be universally formed; for the number of senatorial districts were thirty-two, and the number of parishes were forty-six. It was clearly indispensable to put two or more parishes together in some cases.

Mr. Roman: The object of the section is, that each parish shall form a separate district when it is entitled by its population to elect a senator.

Mr. Downs: The member (Mr. Roman) says that there are only eight single districts. I have no doubt that, when the next census is taken, the apportionment of the representation among the parishes will be very different from what it now is. The number of parishes whose representation it will be necessary to change, may amount to about one-half. Some of the double districts may be separated. It is true that no express rule has been adopted by the Convention; but wherever double districts have been formed, two senators have been allowed. In New Orleans three single districts have been formed, to one of which two senators has been allowed. Two senators have been given to the Lafourche parishes; two to the Opelousas parishes, and two in the Attakapas parishes. Thus in five districts we have ten senators. Where it is necessary to form these double districts, I do not object.

The gentleman from New Orleans (Mr. Conrad) calls my proposition an iron rule, and says that some discretion should be vested in the legislature, to take into consideration something besides population. When my district was about to be deprived of its just representation, and the census of 1840 was referred to as authorising the withdrawal of a senator, I implored the Convention to take into consideration something besides population.

Mr. C. M. Conrad: What I said was this, that the Convention should take into consideration geographical position in forming senatorial districts, but not in assigning the representation.

Mr. Downs: This was my very argument, that the old senatorial district which I represented should be taken into consideration geographically, as well as population. I cannot see what objection can be made to my proposition. Its object is to prevent the representation from being unequal. It fixes a permanent rule, and leaves nothing to be done but to make the calculations. I move that the question be divided, and that it be taken upon that part of the section which ends with the word divisor, and that afterwards it be taken upon the remaining portion of the gentleman's motion.—Before the question was put, the hour having arrived for the order of the day, the further consideration of Mr. Downs' section was suspended.

Mr. Benjamin moved that the question upon the motion of the delegate from St. Landry, (Mr. Lewis) that the city of New Orleans form one senatorial district, and the amendment of the delegate from New Orleans, (Mr. Roselius) that one senator should be a resident of each municipality, be divided, and that the question should be first taken upon the amendment.

The President stated that the question would be first upon striking out from the section, the provision districting the city of New Orleans.

Mr. MARIGNY called for the yeas and nays upon striking out:

Messrs. Aubert, Beatty, Benjamin, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry and Voorhies—31 yeas;

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, McRae, Marigny, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Soulé, Trist, Wederstrandt and Wikoff—26 nays.

Mr. Roselius' amendment was then adopted.

Mr. ROSELIUS moved for the adoption of the section as amended.

Mr. BEATTY would observe that the Convention had decided that no parish should be divided in forming a senatorial district. I have voted for striking out the provision dividing the city of New Orleans into senatorial districts because it is in conflict with that decision. I trust that the house will be consistent in this matter, and I therefore move to strike out from the senatorial district of Plaquemines and St. Bernard that portion of the parish of Orleans on the right bank, in order that it may be restored to the parish of Orleans, to which it belongs.

Mr. BENJAMIN said it would be necessary to reconsider the vote constituting the district of Plaquemines. It would not be regular to do so now.

Mr. BEATTY thought the gentleman (Mr. Benjamin) was mistaken. The whole section was open to amendment.

Mr. C. M. CONRAD: The whole section has been adopted, with the exception of that portion now under consideration.

Mr. BEATTY thought the gentleman was mistaken.

The PRESIDENT decided that Mr. Beatty's motion was in order.

Mr. CHINN would suggest to the gentleman (Mr. Beatty) that the delegates from Plaquemines were not in their seats. They might think it was treating them cavalierly to act upon the matter in their absence. If the question is pressed I shall vote against it.

Mr. BEATTY: I presume they will not object.

Mr. CLAIBORNE: I shall protest against the adoption of the motion of the gentleman, (Mr. Beatty.) That portion of the parish of Orleans on the right bank has never been connected politically with the city. Its position in that respect has been an advantage to it, for it has obtained a separate representative in the popular branch of the legislature, with a smaller number of electors than any parish in the State; for at a period of the greatest political excitement it only gave one hundred and forty votes. To place it with the city of New Orleans would be imposing a greater restriction upon the city than was proposed by any of the reports of the legislative committee—for it would participate in the election of the four senators allotted to the city. The power of the city is already sufficiently restricted, without increasing the number of persons and the extent of territory by which that power shall be exercised. From the adoption of the constitution, that portion of the parish of Orleans has been united with the parishes of Plaquemines and St. Bernard, with which it has formed all its associations. He hoped it would be rejected. It had been sprung upon us suddenly, and at any rate we were not now prepared to sanction it.

Mr. C. M. CONRAD said that the addition of this territory to this senatorial district could be of no advantage to it, nor of any advantage to that portion of the parish of Orleans itself. The city was limited to four senators. It was better that the motion of the delegate from Lafourche should not prevail.

The question was then taken on Mr. Mr. Beatty's motion.

Mr. BEATTY called for the yeas and nays:

Messrs. Beatty, Carriere, Downs, Ledoux, Legendre, McRae, Mayo, O'Bryan, Porter, Prescott of Avoyelles, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Taylor of Assumption and Voorhies—18 yeas;

Messrs. Aubert, Benjamin, Boudousquié, Brazeale, Brent, Burton, Cade, Cènas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Grymes, Guion, Hudspeth, Humble, Kenner, King,

Labauve, Lewis, Marigny, Mazureau, Penn, Porche, Preston, Pugh, Roman, Roselius, Saunders, Scott of Madison, Soulé, Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winder—42 nays.

Mr. Roselius renewed his motion for the adoption of Mr. Lewis' proposition as amended.

Mr. Marigny said, he should vote against the proposition as amended, because he was convinced that injustice had been done to the city, and that in place of allotting four senators, five should have been allowed, in the following proportion: two to the first municipality, two to the second municipality, and one to the third municipality.

Mr. Soule said, that he would vote against the proposition as amended, because it involved a contradiction: that is, the proposition, as introduced by the delegate from St. Landry, was inconsistent with the amendment proposed by the delegate (Mr. Roselius.) The first prescribed that the senatorial representation for the city shall be chosen by general ticket, and the latter admits that there is a difference of interest (my very argument) which is to be reconciled by providing that each of the three municipalities shall have one senator chosen from within its limits. If the amendment is designed to insure the representation of each municipality, it is not as well calculated to effect that purpose as a direct allotment of the four senators in proportion to their population to the three municipalities. The yeas and nays being called for, resulted as follows:

Messrs Aubert, Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies and Winder voted in the affirmative—30 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Downs, Eustis, Garcia, Humble, Ledoux, McRae, Marigny, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Stephens, Trist, Wederstrandt and Wikoff voted in the negative—31 nays.

Mr. Porter proposed that each municipality elect one senator, and that the fourth senator be elected by the three municipalities combined.

Mr. Benjamin felt called upon to oppose this proposition. If it be adopted, the result will be, that the city of New Orleans will have but one representative in both branches of the legislature. I solemnly declare that I will never consent to so odious a principle. I can never sanction a proposition that would deprive the most populous and wealthy portion of the State of ninety-nine hundredths of the political power that belongs to it. What, sir, one senator for the city of New Orleans! The city has been divided in her representation to the lower house; she has been restricted to four senators, when she is in fact entitled to ten, and when her constituency shall make known in mass her views and interests, you go still further, and say that she shall have but one voice in the legislation of the State.

This injustice is revolting. When grave and important measures are agitated, deeply affecting the interests of the whole city, there will be but one member in both branches to assert and to defend those interests. In vain will the voice of the city be invoked to influence the course of the local delegations upon these questions of vital moment to the whole city. They will say that they are not the representatives of the whole city, but the representatives of the particular wards from which they may come. They will represent ward interests. They will not listen to the people of the whole city, and the only way of instructing them will be by little petty meetings held in the petty districts into which the city has been divided. The voice of one hundred thousand citizens will be heard only through one single representative. I have said that the city has been divided in the house of representatives. Let her preserve at least her unity in the senate. Let there be one branch at least of the legislature, through which the general interests of the whole city may be defended and protected. It should be borne in mind that the parish of Orleans is the largest parish in the State. That she contains one-half of the whole white popu-

lation of the State. And yet it is seriously proposed, and that too by a delegate from a parish whose interests are identified with those of New Orleans, that she should have but one senator—for, it must be palpable that the local representation to which she would be doomed, is no representation of the interests of the whole city. It may be perhaps a representation of local petty feelings, of sectional jealousies, but it is by no means that representation which the commercial and other interests of the whole city requires! I cannot believe it possible, that those who are in favor of dividing the city into senatorial districts, will support this novel proposition. There are enough restrictions upon the city already, to arouse the citizens to a sense of the wrongs that have been inflicted upon them. The city has been placed under a ban. She has been declared unworthy to be the seat of government, and for thirty miles round, it has been declared that the atmosphere is tainted with her pestiferous breath. If this last act of proscription is to be consummated—if the city, with all her population and all her wealth, is practically to be narrowed down to one representative in the legislature, then I declare that I shall never sign a constitution in which this act of oppression is perpetrated. I protest against it now in the name of my constituents, as an outrage to which they will never submit.

Mr. C. M. Conrad: I indulged the hope that the amendment proposed by my colleague (Mr. Roselius) would have conciliated those who were the most strenuously opposed to a united ticket. Those gentlemen admit what they cannot deny, that to divide the city further in her representation will have the effect of weakening still further her already too weak influence. It is impossible for gentlemen, as distinguished as they are for penetration and for candor, to deny that such inevitably will be the result. What are the grounds for the position they have assumed? They tell us that they fear the overwhelming influence that one portion of the city will exercise over another portion of the city. That the rights of the weaker portion will suffer. I do not entertain these apprehensions. I think they are unfounded, and that the only consequence of what is proposed, as an effectual remedy, will be the very results which they so seriously deprecate. Have I not shown, conclusively shown, that in every election each particular municipality has had its wishes consulted in the selection of candidates, and that if any advantage was given, it was in favor of that portion of the city that is known to be in the minority. Have we not this fact established before our very eyes? Out of the eleven delegates from the city, nearly one-half are from the third municipality! I was willing to concede something to the fears of gentlemen, although I believed them to be illusory. My colleague (Mr. Roselius) whose family and whose property are all centered in the first municipality, proposed what I conceived eminently calculated to dispel the fears of the most timid; and I really thought that his proposition would have given satisfaction. That gentleman would certainly be the last one to propose any thing that would be prejudicial to any portion of the city, and least of all, the very portion of which he is a resident. Can gentlemen seriously entertain the apprehensions they profess? I would ask them if the participation in the election of four senators would not afford more adequate protection, and give to each section of the city greater weight in the legislature than the election separately of one senator? Why have not the rights of the first and third municipalities been invaded up to the present time by the second municipality, which, it is now assumed, desires to control the other two? Has any disposition been shown by her to monopolize the political power of the city? I have never heard of such an attempt. What protection did the old constitution afford, and yet in a period of thirty years, no example can be shown that any one section of the city has sought to oppress the other! Has any attempts been made by the representation to the legislature, taken at large from each of the municipalities, to rule over and oppress any portion of the city? I defy any one to point it out! I cannot conceive of a more effectual mode of representing the interests of all, than that all should participate in the election of the entire representation. The city of New Orleans has one general mass of interests that cannot be separated. Her feelings and sympathies as a city are identical. But if there were sectional interests in the city that ought properly to be

represented in the legislature by representives chosen immediately by those interests, that necessity is amply provided for in the house of representatives. The city has not only been divided into the familiar division of municipalities, but each municipality has been subdivided into three or more election districts, for the purpose of distributing the twenty representatives allowed to the whole city. What danger can these petty interests incur? It is the city that is left defenceless, and if you deprive her of all representation in the senate save one, as proposed by the delegate from Jefferson (Mr. Preston) she will be helpless indeed!

The amendment of my friend, (Mr. Roselius) so far from conciliating the favor of those opposed to the election of senators for the city by general ticket, (and it went as far as was consistent with the principle of keeping the city united,) has, in one instance at least, alienated the vote of a gentleman who has heretofore opposed, with the greatest ability, the division of the city into senatorial districts. I deplore the unlooked for termination of that amendment. I should deeply regret if the present proposition were to pass, as I conceive it would be attended with the most disastrous results to the best interests of the city; and in the view of those results, I should feel myself constrained, were the proposition to be embodied in the constitution, to refuse my signature to that instrument.

Mr. Eustis: I should not have troubled the Convention with any remarks of mine, had not the gentleman who has just resumed his seat alluded to the vote I gave upon the proposition of the delegate from St. Landry, coupled as it was with the amendment of my colleague, (Mr. Roselius.) When the vote was taken, some days ago, upon the proposition to divide the city into three senatorial districts, I was the only member that spoke against that proposition. I then had the honor to state that the senators from the city would be entrusted with important general interests, and not with local interests. That every thing of a local character should be expunged, as it were, and not influence those who represented, in that body, this great constituency. It suited the Convention, for good or for evil, to take a different view of the subject.

I have been, throughout, opposed to small districts in the formation of the senate, because I conceived they were incompatible with the peculiar attributes of that body. I have voted throughout for large districts; and in reference to this great city, I do think that the *ensemble* of its interests should be represented in that branch of the legislature, which, from its very composition, was designed to promote and to guard those interests.

As for the hybrid proposition of the gentleman from Jefferson, (Mr. Preston) I shall vote against it. I consider it as neither one thing nor the other. The amendment or proviso of the gentleman from New Orleans, (Mr. Roselius) embodied in the proposition of the delegate from St. Landry, (Mr. Lewis) involved a palpable contradiction. The first part declares that the choice of senators for the city shall be by a general ticket; the latter part says that one senator shall be taken from each municipality. How can that be? If laws have any sense, the latter clause means that each municipality shall have a senator. I deny that such would be the result. If each municipality is to have its separate senator, that senator must be elected by the constituents whom he represents; otherwise, if elected by the concurrent vote of the three municipalities, he will be as much the representative of one municipality as he is the representative of the others. He cannot be chosen by the three and yet be the exclusive representative of but one. The strongest municipality will force the choice of the other two. That will be the result of this proviso. This being the light in which I have viewed the subject, and considering the interests of this great metropolis—its power and its dignity, I am in favor of the election of its senators by a general ticket. But I could not vote for that principle accompanied by an amendment in direct conflict with it; neither can I vote for the proposition of the delegate from Jefferson, (Mr. Preston.) If the city is to be one senatorial district, adopt the principle without reservation. If, on the contrary, each municipality is to have its own senator, let each municipality elect that senator, without the participation of the other municipalities, for they can certainly have nothing in common with the mere local representatives of each other. I cannot vote for the two principles combined without a violation of both.

Mr. Roselius: I did not apprehend that my amendment would have encountered so much opposition. For myself, I care little whether it be incorporated in the constitution or not. I consider it of very little importance, and I only introduced it with the view of meeting the wishes of certain gentlemen on this floor. Its practical effect will be nothing more than to sanction what has been invariably done in our elections, and which will continue to be done. It is not likely, it is impossible that an attempt will be made to elect all the senators from one quarter of the city; and if it be made, it will not be successful. We have the proof before us that no sectional feelings exist among the municipalities, as to the mere residence of those chosen to represent the city. They have in all the elections been indiscriminately taken all over the city, and personal popularity and political predilections have had no more weight than any thing else. In the selection of delegates to represent the city in the Convention, party politics were discarded, and we find the third municipality, which is supposed to be the weakest, has four representatives on this floor. The balance are from the first municipality, and it has so happened; by accident, that not one of the delegates is a resident of the second municipality. This did not happen because there were no candidates residing in the second municipality. There were candidates defeated residing in all the municipalities. This has heretofore been the usual result in all our elections, and it frequently happens that a candidate obtains more votes in another municipality, than in the one in which he resides.

As to the proposition of the delegate from Jefferson, it is somewhat of a nondescript; it seems to me at any rate, to be a novelty. I presume, in his view, that if New Orleans compose but one senatorial district, it cannot constitute three senatorial districts. To divide it into three senatorial districts, in order to make each municipality a senatorial district, and then divide it into one senatorial district for the election of one member, would, in my humble conception, be an absurdity! For such a proceeding I can perceive no reason. One of two things, if the city of New Orleans be constituted one senatorial district, then the choice of the senators must be by general ticket. If you wish to enfeeble the power of the city, to paralyze her strength, you will establish small and insignificant local districts; and in that way you will carry out the principle—"divide and conquer."

Mr. Preston: I have one or two observations to make. I did not join in the desire to reduce New Orleans below her proportion of political power. I was in favor of electors as the basis of apportionment for the senate, as well as for the house of representatives. It was ascertained to be the sense of the Convention that there should be an absolute restriction upon the city, it being considered that a concentrated power of nearly one-half of the house and of the senate, would be attended with dangerous results to the balance of the State. The disposition to curtail the power of New Orleans was tested in two or three different ways, until it was determined that she should be restricted to one-eighth of the total number of senators, to wit: four out of thirty-two. That has been done; it is past, and cannot be changed. All that we can do is to take the basis of apportionment as it has been adopted.

The basis of electors which I proposed, would have been more favorable to the city, but her delegation all voted against it. The total population having been taken as the basis, from the neeessity of the case, the distribution among the three municipalities had to be made in conformity with the census of 1840; according to that census the allotment of senators was as follows: two to the first municipality; one for the second, and one for the third. The sense of the Convention was favorable to the division of the city, and this division was sanctioned, together with the distribution that was made among the municipalities, of the four senators, by a decisive vote. Subsequently the house retraced its steps, and that portion of the section was stricken out. It was then proposed that the senators for the city should be chosen by general ticket. This has been voted down; and it is necessary we should do something. Hence I have proposed this mode of settling the difficulty. I confess that I would have been better satisfied had five senators been allowed to the city; and that would have enabled us to have made a fairer distribution among the municipalities. We could have assigned two

to the first municipality; two to the second municipality, and the remaining one to the third municipality. I think that the population of the municipalities would have fully justified it.

I have voted with others that we should not have large senatorial districts. By one of the reports of the committee on the legislative department—the report of the majority—the parish of Jefferson was placed in a district with four senators. I was convinced that the parish, nay the very city of Lafayette itself, would have controlled the election. But I could not sanction it, because I thought it wrong upon principle. Subsequently, when I saw the scramble for political power, I voted for it, but I must confess individually it went very much against me. I am in favor of small districts, because they bring the representative and the represented in close contact.

The delegate from St. James, (Mr. Roman) who has spoken with a great deal of good sense, has attempted to establish a very material difference between the composition of the senate and the composition of the house of representatives, and he has assumed that unless the difference be maintained by the constituency of the former being made greater than that of the latter, the objects for which the senate was created will most signally fail. I conceive that there is nothing that requires this dissimilarity between them. I grant that they have different functions to perform; the senate has executive and judicial powers, as well as legislative powers. The house of representatives can alone originate bills of revenue. In these respects their powers are different; but in other respects they are the same. So far as they represent the will of the people, and are amenable to the will of the people, the republican doctrine is, that they both should be under the direct and immediate control of the people; and there should be no more exemption from this responsibility for the one than there is for the other. It is of the very essence of popular government that the representative be brought into close contact with his constituency; and to secure that end the districts should be small. But to this it is objected that it will be impossible to get a proper man in a small district to represent its interests; that you must have large districts to get men of splendid abilities. I repudiate the necessity for these extraordinary abilities. If a man is endowed with good sense, if he have the good of his constituents at heart, that is the desideratum, and not splendid abilities. Take a man from home, where he is well known, and where he has been weighed, to represent the interests of the parish, if you wish to see those interests zealously and properly represented. For the third municipality elect a man for the third municipality; for the second municipality elect a man for the second municipality; and for the first municipality elect a man for the first municipality. The third municipality has a large territory and a considerable population, but a considerable portion of that population are excluded from political rights. The first municipality, in 1840, had more than double the population of the second municipality, but the latter is now about equal in population. Another senator would remain to be elected after allotting one to each municipality. It has been determined that the four shall not be elected by a general ticket. It has been determined that the first municipality shall not elect two senators. Let the three municipalities combine then and elect the other.

But, oh! says the gentleman, you will destroy the political power of New Orleans. The majority of her citizens are opposed to districting the city, and if it be done I will not affix my name to the constitution. I am of opinion that the municipalities will prefer to elect one of their own citizens to represent them, responsible to them for his fidelity, than to participate in the election of four senators. They will have a direct voice in the election of that one; and they may not approve of any proceeding calculated to deprive them of that advantage. I do not know what they may do, but I know that they have heretofore had but a single senator, one out of seventeen; and that for a series of years their representatives opposed the call of a Convention, which was indispensable to equalize the representation in both branches of the legislature. At all events their political power in the senate has doubled.

They will not have, exclaims the gentleman, the same political influence as if they were combined. They will not be a

concentrated mass. I agree with the gentleman in that. But I would establish a material distinction. When the general interests of the city are involved, they will act in concert, and as an unit, in defence of those interests. When the local interests are alone concerned, they may differ, and when those interests conflict, the country will decide between them. Shall I tell the Convention in candor and in good will what is the real difficulty? The politics at Washington unfortunately have too much influence among us. They enter too much into our legislation. Suppose there are thirty-three hundred votes, and one party gets fifteen hundred and the other party eighteen hundred, your representative represents but three hundred, the simple majority, and no more. When the views of the fifteen hundred upon general subjects are opposed to his, he misrepresents them in reference to those views. But if you go still further, and narrow down the majority to only fifty votes, your senators would represent those fifty votes, but the fifteen hundred would not be represented. This would be unjust, and that injustice ought not to be rendered possible. If one municipality entertains different feelings or sentiments let her be in a situation to speak out those sentiments; let her express her local politics. If the majority be whig or democrat, let the municipalities, even upon those subjects, express their respective predilections. When the interests of the city are only involved, the representatives and senators from the municipalities will act in concert—they will unite a Macedonian phalanx; but when their interests are divergent, they will divide, as they ought to vide. If general politics should enter into the selection of the representatives, they will each represent the politics of the different districts, and the fourth senator, that will be elected by the combined vote of the city, will represent the majority of two or three hundred that may be found to exist. That will be justice. The only alternative that we have is to adopt the proposition that I have submitted.

Mr. Marigny: I will sustain the proposition of the delegate from Jefferson.

Mr. Grymes desired to record his sentiments and opinions upon the question under debate. He would never consent that the senatorial district should be divided and subdivided. The result of the present proposition would be to prostrate completely the influence of the city in the general assembly. Its influence had already been destroyed in one branch of the legislature.

It seems to me (continued Mr. Grymes) that the Convention are retracing its steps. This parish, which has been for the last thirty years a senatorial district, is to be cut up, to make three districts, notwithstanding the principle enunciated, that no parish shall be divided in the formation of senatorial districts. To save appearances, one senator is to be elected by the whole district, and three by the independent districts *de facto*. I stand here as the representative of the senatorial district, and I am representing the will of the great body of my constituents, when I say they wish the district to remain as it is. I am in favor of large senatorial districts, and I differ in opinion from the gentleman from Jefferson (Mr. Preston.) His doctrines in relation to the senate are without any foundation. The theory of our government is, that the house of representatives immediately represents the people, and the constituency are divided in reference to that body in as many small districts as the most thorough paced democrat could desire. I have reflected upon the organization of popular governments, and I am convinced that it was the design of the framers of our institutions, that the senate should operate as a check upon the more numerous and more popular body. To it are confided all subjects of general policy, and whatever may effect the general interests of the State. What is required from it is greater circumspection—a cooler and more dispassionate judgment, to still the effervescence of the popular branch. But if it is to be constituted upon the same model—if there is to be no dissimilarity in the constituency or in the territory it represents, what becomes of the theory of the government that it is a check to guard against the results of hasty and inconsiderate legislation. It is a perfect farce, and amounts to no more than this, that thirty-two men coming from the same persons, and representing identically the same local interests, sit in one room as the senate, and seventy-seven persons sit in another room as the house of representatives. One of them is assuredly superfluous. The gen

tleman from Jefferson (Mr. Preston) has pointed out what he conceived to be the immaterial difference in their functions. He skims but on the surface. He says the senate has judicial powers. The faculty of judging between man and man creates no difference in the legislative attributes of the members of that body, no more than the investment of the right to hear and determine civil or criminal cases would change the character of other functions that might be committed to the same individual. If both bodies of the legislature are to be elected by the same people, the difference will be small indeed. The design of a larger constituency is that the qualifications of candidates may pass through the ordeal of a more general scrutiny; and that by this means there may be greater wisdom and sagacity in the senate; superior coolness, greater experience in public affairs, and greater aptitude. The only distinction now remaining, is that they are called from a greater constituency. Destroy that difference, and the theory of our government is at an end. Do gentlemen contemplate to drive the government into the hands of a bare majority? That would seem to be the argument of the gentleman from Jefferson. If the members of the senate are to be called from a hamlet, from a small circle, the choice will be confided to a few. The character and qualifications of those that may be chosen, will pass without a proper scrutiny. And if the person chosen have general interests to represent, it must be apparent that he will not understand those interests, and will be unable to maintain them. For example, in a large district like New Orleans, a man may be elected from one of the local districts, that represents nothing but an imaginary interest, and that suppositious interest may be considered incompatible with the promotion of some general interest of the whole city. The province of the senate is to revise what has passed through the lower house; to stop the errors it may commit. If this be not its province, it is useless. As to a similarity in the constituency, that would defeat the object of having a senate to act upon the general interests of all the people, in contradistinction with the partial interests of particular individuals.

I concur in the remarks that fell from my colleague, (Mr. Benjamin) and I repeat his declaration, that with the proposition of the delegate from Jefferson (Mr. Preston) I could never sign the new constitution. It would paralyze the efficacy of the senate, so far as the city of New Orleans was concerned, and if the same principle were carried out for the balance of the State, it would merge the senate completely in the house of representatives, and would destroy every vestige of conservative power.

I am opposed to the proviso of my colleague (Mr. Roselius) requiring that one senator should be taken from each of the municipalities, as a constitutional provision. I think it radically wrong. I voted for it, it is true. But why? Because I wished to get all I could. It was contrary, however, to my deliberate judgment of the well-being and proper representation. I conceded for the purpose of securing a compromise.

I am surprised that the representative of an adjacent parish, so closely allied to us as the parish of Jefferson, having a similarity of interests and profiting by our advancement, and the increase of our population, which is spreading to her limits, should have raised his arm against New Orleans to strike a fatal blow upon her prosperity and her political existence. How could that delegate be induced to favor the amputation of the city—the cutting off of her limbs, the reduction of her political weight to a mere cypher?

Whenever the system of dividing senatorial representation into infinities, has prevailed, governments have lost their force; parties destroy one another, and the social fabric crumbles beneath its own weight. May God deliver us from these petty passions and excitements! The legislation of the country cannot maintain itself without the checks and balances, peculiar to our system, are preserved. Nothing is safe without them. Our liberties and our property is exposed to become the mere sport of a temporary majority. The interests o the minority ought to be vigilantly guarded. The ancient landmarks of the constitution must be preserved; the bulwarks that our ancestors have raised must not be revived;—there is a limit to the power of majorities, and beyond that limit they must not be allowed to pass. The power of the majorities must be restrained to its appro-

priate orbit. Let them govern, but let them govern according to fundamental principles. The new theories that we have heard are dangerous, and if they prevail, the strength and the power of the State are gone. The efficacy of our institutions are gone! We have already, in some measure, gone beyond the essential principles of popular government. We have approached the dead level. Every thing has been cut to suit the motives of the day. There is but one thing left—we are riding with a single anchor. If we desire to perpetuate our institutions, let us put the conservative power of the government in the senate. It is the only place where we can transfer it.

Mr. BEATTY said he was in favor of large districts. He was in favor of there being but one district in the parish of Orleans. The Convention had determined that no parish should be divided in the formation of senatorial districts, and yet, when he moved to re-unite that portion of the parish of Orleans to the senatorial district formed of the parish, they refused to carry out the very principle which they had sanctioned. Under these circumstances, he was left to the alternative of refusing to vote, or to take that course which his judgment dictated to him as the test. If large districts are not to be established, then he was willing to take small districts, and being unable to compel the Convention to be consistent, he would vote in favor of the proposition of the gentleman from Jefferson.

The question was taken on Mr. Preston's motion, and the yeas and nays were called for.

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Trist and Wederstrandt—28 yeas.

Messrs. Aubert, Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder—38 nays.

Mr. SOULE then moved that the Convention adjourn. Yeas 23, nays 37.

Mr. EUSTIS moved for the reconsideration of the vote upon Mr. Lewis' proposition, that the four senators allowed to the city should be elected by general ticket, as amended by the proviso of Mr. Roselius.

The yeas and nays were called for.

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Scott of Feliciana, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies and Winder—34 yeas.

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Madison, Soulè, Trist, Wederstrandt and Wikoff—25 nays.

Mr. ROSELIUS stated he would withdraw his amendment.

Mr. McRAE made a call of the house—58 members present.

Whereupon, the Convention adjourned.

TUESDAY, April 8, 1845.

The Convention met agreeably to adjournment, and its proceedings were opened with prayer by the Rev. Mr. CLARK.

ORDER OF THE DAY.

Senatorial representation of the city of New Orleans.

Mr. CULBERTSON said, that the reconsideration voted yesterday, embraced the proposition of the delegate from St. Landry, (Mr. Lewis) and the amendment offered thereto by the delegate from New Orleans (Mr. Roselius.) The secretary explained. Mr. Culbertson stated that he had a distinct recollection of what took place, and he was not the only one that remembered the proceedings that were had after the vote was reconsidered. My colleague (Mr. Roselius) said he would withdraw the amendment, but no action was had upon granting him leave to withdraw, and according to parliamentary rules, when a motion was once entertained by a

deliberative body, it could not be withdrawn but with the assent of the majority.

The PRESIDENT said there was nothing before the house without a motion to correct the journals.

Mr. CHINN said that his recollection differed somewhat from that of the gentleman. He remembered that the delegate from New Orleans (Mr. Roselius) stated that he would withdraw his amendment—that the President asked if there was any objection, and no objection was made. The President said there was nothing before the Convention if no motion were made to amend the journals.

Mr. ROSELIUS wished the journals to state that he had withdrawn his amendment.

Mr. CULBERTSON said that his colleague labored under a mistake. He had asked to withdraw his amendment, but no action had been had thereon.

Mr. PORTER had a distinct recollection of the facts stated by Mr. Culbertson.

Mr. ROSELIUS did not set up his memory as being infallible in relation to this matter. He did not pretend to be certain of what actually took place. He did not pretend to be certain of anything—he was not certain that he was now actually in the Convention.

Mr. CULBELTSON said it was easily accounted for why his recollection was the most distinct; he took a greater interest in the amendment.

Mr. EUSTIS proposed to take the opinion of the President.

The PRESIDENT stated that when a motion was once entertained, it could not be withdrawn without the consent of the house.

Mr. ROSELIUS said there was no difficulty about the rule. The only difficulty was in relation to the facts.

Mr. CLAIBORNE said that the state of the question was simply this: the motion made to reconsider by the delegate (Mr. Eustis) for the purpose of striking out the amendment. The reconsideration was carried, and the delegate (Mr. Roselius) stated that he would withdraw his amendment. If the question was not actually taken, the tacit consent of the house was at least obtained for the withdrawal of the amendment.

Mr. ROSELIUS said, that to prevent further debate, he would move to strike out the amendment. His motion prevailed.

Mr. BENJAMIN then moved the adoption of Mr. Lewis' proposition.

Mr. CULBERTSON: I find it entirely incompatible with my ideas of justice to vote in favor of the proposition before us. When the subject first came up—I do not recollect the particular day—I made a motion to apportion the representation accorded to the city in the senate, in accordance with the basis of total population, which had been adopted by the Convention. It will be recollected that in making the apportionment for the senate in the several districts throughout the State, the census of 1840 was taken as the guide in making that apportionment. I had in view the populations in the three municipalities, as indicated by the census. The population of the first municipality was shown by that data to be forty-eight-thousand one hundred and thirty-one, and it was therefore entitled to two senators. The population of the third municipality was twenty-six thousand eight hundred and forty-three, and it was entitled to one senator—and the second municipality having a population of nineteen thousand two hundred and thirty-five, was entitled to one senator. On that occasion, I do not recollect that any objection was made to my proposition, except perhaps on the part of my colleague (Mr. Eustis.) My other colleagues who were present did not form any opposition. In proposing this distribution, I acted without favor or fear, and with the sincere desire to be impartial. The proposition was adopted. Since its adoption, a great deal of noise has been made—a good deal here and a good deal elsewhere, and the particular course I thought it my duty to follow, has been attacked with some degree of asperity. Expressions have been employed, which were not authorized, and which were in the highest degree, to say the least, out of place. Without taking any especial credit to myself, I may say, that I am as anxious to represent the interests of the city, and to reflect the will of my constituents, as any member upon this floor. I have incurred some displeasure because I would not yield my settled convictions of what I considered to be just and right in reference to this matter. We have been told that the

people of New Orleans would not yield their assent; that they are opposed to that measure! What evidence have we, that they are opposed to it, especially under the form presented by my colleague (Mr. Roselius.) I profess to know something about the views and sentiments of those I represent, and I do assert that the proposition will be acceptable. Each municipality will have one senator taken from its limits, that will take care of its local interests, while he will unite with his colleagues in the maintenance of the general interest of the whole city. The fourth senator will be taken, from whichever section that it may please the good will of the people to determine, and if there should be any clashing of interest between the municipalities, he will act as a species of umpire between them. The idea has been put forth in this body that the interests of the municipalities are not adverse. I will not say that such a notion is ridiculous, that it is nonsensical. The amendment is not mine—I am not the father of it—it originated with a gentleman who entertains contrary views to my own upon the expediency of establishing each municipality into a senatorial district. If the interests of the municipalities be diverse, this diversity will not be reconciled by establishing a single senatorial district, neither will it be aggravated by conceding to each municipality its just proportion of political power. I have thought in view of the separate interests of the municipalities, that there should be some guarantee that each municipality shall be heard, and believing that the amendment would have that tendency as well as the effect of settling the question, I have given to it my sanction. But we are here met by the inquiry, why divide a city whose interests are identical? I may reply to this, that even in the view of those that are opposed to creating more than a single senatorial district in the city, they have admitted that these interests are not identical, not only in their arguments, but in the very proviso they have offered. And besides, have we not the very division of the city into three municipalities, to show that their separation was considered promotive of the furtherance of their special interests?

Should no provision be adopted, the result may be that one municipality will be overpowered by another, and will have to complain and groan for some adequate relief. If we adopt the principle of the proviso, whenever the general interests of the city may be involved, the senators elected for the whole city, but coming from each municipality, will sustain those interests by their united action. Of that there can be no question. I do not believe that the result will be the same without the proviso. It is assumed that it will be so, and that the municipalities will arrange the matter between themselves. That may happen, or it may not happen. I cannot leave to chance that which ought to be placed beyond the possibility of contingencies. One portion will always be liable to suffer if there be no express stipulation. These are my views hastily expressed. I am sure that the people of two of the municipalities are generally in favor of assuring to them a senatorial representation. I think it is for the interest of all the municipalities. An effort is made to induce the belief that the people of the second municipality are against it in mass. If this be so, I am sorry for it; but at the same time I cannot consent to yield up my convictions and to expose the political rights of any portion of my constituents, to be swallowed up.

Mr. Roselius: Since this discussion began, I have reflected a great deal upon the question of the alledged diversity of interest between the different sections of New Orleans. I have endeavored to ascertain in what particular such diversity might arise. Gentlemen assert roundly, that what I have always considered one city, constitutes three cities. In what respect, I would ask them, are the interests of the third municipality opposed to those of the first or second municipalities on subjects of general legislation? For we are not considering the local measures that may apply to the different parts of the city. Our attention is called to general subjects of legislation, which will occupy the councils of the State. What are the all pervading, the peramount interests of New Orleans? Is not this a great commercial city, and will not the measures promotive of the course of trade by the legislation of the State, apply as well to one municipality as to another? Will not the measures which are essential to develope the resour-

ces of the city operate equally? The city is not actuated by different springs of action, and whatever contributes to her general prosperity, is felt as well in one municipality as in another. Will gentlemen tell me that there is any difference between the different portions of the city in matters of general legislation? After the best reflection, I consider the city of New Orleans, in reference to general objects of legislation, as an unity. It is erroneous to suppose that there are any measures of State legislation, which would be detrimental to one and advantageous to the other. It was justly remarked by one of my colleagues, the other day, that all measures of a general character emanate from her general council. It is only local measures that are represented in the local councils. The executive power of the city is vested in one chief magistrate. There is but one mayor, and his functions are not circumscribed within the artificial bounds of the separate municipalities. Is it sound legislation—is it sound policy, to subdivide a city situated as New Orleans, the pursuits of whose citizens are the same, and whose commerce, mechanics and navigation cannot be severed: whose interests go hand in hand, and whose extended relations has procured for her the appropriate name of the great emporium of the west?

And is it seriously proposed to strike a fatal blow at this great city, by splitting her up into petty fractions? All history teems with examples of the fatal consequences of separating general interests. To divide a city—to divide a community—that should be joined in the bond of unity—of brotherhood! Why, what will be the consequence? What was the consequence that immediately flowed from that division? An absurd, a preposterous rivalship between the municipalities. Instead of combining the interests of the whole city, these municipalities contended with each other, so as to defeat the very object which they all should have had in view. Instead of pushing forward to the development of the immense resources of this vast city, they were distracted and divided by petty jealousies, fomented and kindled from day to day, and which counteracted the most beneficial measures—measures that would have given it the most irresistible impetus, and which would have spread improvements and prosperity over every portion of the city. With this fearful example before our eyes—with the consequences of this abominable, execrable policy, let us pause before we make the deplorable results of that short-sighted policy perpetual. The evil may as yet be remedied. The same power that divided us may unite us, and it would be an act of the greatest wisdom, if the first legislature convened after the adoption of this constitution, should ordain that the city should be restored to its former state of unity, before the passage of the act dividing the three municipalities. That ought to be done. These are my sincere wishes. There is nothing in the way as yet but a legislative act. But if we recognize the constitutional division of the city into senatorial districts, we interpose an insuperable barrier. The evil will then be irremediable. The division will be recognized in the constitution, and no legislative act will be available to unite the city. With a view to prevent this obstacle, the Orleans delegation took care in the division of the city into representative districts, not to allude to the division into municipalities. They divided the city into election districts, but they abstained from saying any thing recognitive of the existence of three municipalities. Let us beware how we proceed. If we change our former course in reference to the apportionment of the house, and recognize three municipalities, the separation will be perpetual, and no legislative act will ever unite the city. There is no measure comprised within the legislative functions that I have more at heart than to see the city united in name as well as in nature. The distinctions that may have suggested its division were unnatural; they were artificial, and were not authorised by the pursuits of the citizens or the permanent prosperity of the city. It was effected by the greediness of certain persons residing within certain limits. Let me not be misunderstood. I refer to the act dividing the city into three municipalities. That is one of the great objections—one of the reasons why I am in favor of a general ticket, and against the recognition in the constitution of the three municipalities. But it may be said that my acts are inconsistent with my professions, and I may be charged with introducing the proviso. That proviso never

met my approbation. I consented with my colleagues to introduce it for the purpose of removing the objections of certain gentlemen on this floor. I am not disappointed with the course taken by the house in relation to it. I am rejoiced that it met with an unfavorable reception. It was a measure that I regretted to introduce. It was sacrificing expediency to principle. It is is the first time I have ever done so, and I hope to God it will be the last.

Now as to the practical operation of the election of the senators allotted to the city, by general ticket: Is there any necessity —I would ask my colleagues with whom I have the misfortune to differ—is there any necessity for a constitutional provision that the senators should be taken from different portions of the city. There is none. We have had the experience of thirty-two years under the old constitution, and I am not aware that an election has ever taken place that has not been fairly and justly conducted, in reference to the different quarters of the city. It is true, that in times of great political excitement, the candidates that may have been elected have been taken from particular quarters of the city. But these are exceptions to the almost invariable rule. The sense of the community has been that the persons to be elected should be taken from the different quarters of the city. They have done so, and will continue to do so. I repeat that this supposed diversity of opinion does not exist. It is merely imaginary. It is conjured up by the fervid imaginations of gentlemen. I challenge them to point out any subject of general legislation in which the interests of the municipalities are adverse to each other. If they cannot give a satisfactory reply, it is a fair inference that they are mistaken and that we are right.

Something has been said about the opinions of the citizens at large in relation to this question. I am now speaking in the presence of a number of my constituents; I have conversed with hundreds of them in the first municipality—I have conversed with some in the second municipality, and some in the third municipality upon the subject, and as far as my personal communications with them have gone, their sentiments are the reverse of those attributed by one of my colleagues, who is not in favor of the election by general ticket. There may be different opinions upon the expediency of the measure, entertained by the people of New Orleans, but for my part I have not met with a single one of my constituents who is in favor of it. I do not pretend to be better conversant with their views and feelings than any of my colleagues, but I have taken some little pains to satisfy myself how far public opinion favored the proposition, not in any one particular quarter of the city alone, but all over the city. I represent on this floor the whole city of New Orleans. I am not the representative of a particular section, although I was upon the point of saying—and I would have given utterance to a bull—that I had resided all my life in one quarter of the city. I may say that I have resided for a quarter of a century in the first municipality, and may claim as much identity with that municipality as most persons residing there. I have had as fair an opportunity of ascertaining their wishes and knowing their will as any one. I have met with no opposition to preserving the unity of the city in her representation to the legislature. The only opposition that I have encountered has been in this house. If there had been opposition it could not have escaped my attention. But should there even be opposition, should there be a majority of my constituents who were in favor of dividing the city in her senatorial representation, I would not permit them to dictate to me the course I should adopt upon this occasion. I am here to use the best lights of my reflection, and to do that which in my own judgment would be most conducive to the interests of the whole city. I do not recognize the right of instruction, and before I would do any thing which my conscience condemned, I would resign. I am persuaded that nothing could be devised more detrimental to the city than to split her up and divide her into petty fragments. She is already too much divided, and so far from sanctioning further divisions, had I the power, I would this moment cause the last traces of those that exist forever to disappear.

Mr. Soule proposed the following amendment:

Provided, That the legislature which shall assemble immediately after this con-

stitution shall pass a law abolishing the division of the city into three municipalities, and shall constitute it into a single corporation with a single council and a single administration.

Mr. Marigny: if I ever regretted my want of familiarity with the English language, it is at the present moment, for I have the settled conviction that if I could make myself understood in that language, which is most generally understood by the members of this Convention, I would triumph over all opposition. The arguments of my colleague (Mr. Roselius) are not the arguments of the heart. His mind has created them in the midst of the movements and excitements that have occurred within the last forty-eight hours. Let us pass them in review, in order that I may destroy them as the lightning blasts the leaves of the trees that it may strike. I do not (says he) represent a fraction of the city, but the whole city, and those that are opposed to me are not familiar with public opinion. Their doctrines are irrational, pernicious, and are dangerous to the public tranquility. This language is far from being complimentary to those who may differ with him in opinion. He tells us that we are extravagant in desiring to carry out our opinions, and leaves it to be inferred that all the wisdom of the Orleans delegation is concentrated in his person. I but seldom speak of myself. I do not aspire to popularity, still less to those honors, which under a government like ours, a government which I fully comprehend, it would have been easy for me to have attained by the assistance of those natural talents that I possess, for the faculty of speech, if not of elocution. I may therefore, as every man would, who feels that he is in the right, place myself face to face with an opponent or enemy, in assuming the defence of what I consider just and rational. We have been told that the division of the city into three municipalities is a misfortune; but we have not been told who provoked that misfortune. This is the second part of the episode, which I shall now relate. I was a member of the legislature when the law was introduced, dividing the city into three municipalities, and among my colleagues was the honorable delegate from St. Landry (Mr. Lewis.) Another of the delegates (Mr. Conrad) was not actually a member of the legislature at that period, but he was a lobby member. If I am not much mistaken, he bore a conspicuous part in drafting the law, and in securing its passage. In examining the grounds assumed at that time by the honorable delegate from St. Landry, (Mr. Lewis) and those that particularly co-operated with him, among whom were most conspicuous, we shall have a pretty accurate knowledge of the merits of that question. The honorable delegate from St. Landry assumed that there was an incompatibility in the union between the upper and lower portions of the city, and by what arguments do you think he supported that position? He said that in the upper portion, English was spoken, and in the lower portion, French. That there was more activity above, and greater insousiance below—that the hour of repasts were different, and that there was no similarity in the habitudes of making these repasts. That the French police were more severe than the American police, and would not permit those familiar boxing matches with which the new population were familiar in the streets. By these singular arguments he succeeded in establishing to his own satisfaction, and to that of the majority of the house, that there ought to be a division of the city. The most remarkable feature however, was the attempt made by him to incorporate a section in the law by which the whole of the property belonging to the old corporation should be estimated, and the first municipality charged with a debt of two millions towards the second municipality, and five hundred thousand dollars towards the third municipality. Persons of small intelligence inquired in vain how it could be that a mother who had fed and clothed her children out of her own resources, could become their debtor. But notwithstanding, the discussion lasted ten days. I opposed the whole measure with as much warmth and energy as I could command, and the house becoming wearied with hearing me address them in French, I was under the necessity of sustaining my views as well as I could in English.

I introduced documents which incontestably proved that the property which was to have been seized upon, belonged to the old corporation in virtue of donations made

by the kings of France and Spain. The three champions of the division of the city and the spoliation of the old corporation, grounded their arms, and that section was rejected. It was however no less apparent, from the debates, that the authors of the scheme designed to extort two millions five hundred thousand dollars from the old corporation, independent of the territory they took from her to constitute the two other municipalities. And is it now that they will seriously tell us that New Orleans is but one city; that we are but one family; that we have the same habits and the same usages, and that we can very easily combine in making the elections common to the three municipalities, as one integral city? I admit that were there any danger to menace the common tranquility, we would act in concert in resisting it. If a war or an invasion was to occur we would be united, because valor is the natural sentiment of all, and each would feel that they were fighting more for the country than for a locality. But in times of peace we do not harmonise; we do not appreciate each other's peculiar customs in any thing, not even in religion, for the inhabitants of the first municipality dance and amuse themselves on Sunday, while the inhabitants of the second municipality are making their prayers or singing hymns.

One of the gentlemen, I believe it was my colleague, (Mr. Conrad) has entertained us with an account of the numerous and splendid steamers that adorn our wharves, and of those rich and vast merchant vessels that are wafted to us from every clime, but he has not told us where these vessels moor. That is an important matter which he has forgotten. But of what do you complain, asks the advocates of the general ticket system? Is it of a matter of preference that may result in the elections? If it be this, say they, you are mistaken, and the proof that you are mistaken is found in the fact that out of the eleven delegates representing the city in this Convention, there is not a single one that is a resident of the second municipality. That is true. It is the result of mere chance; but what shows that the second municipality nevertheless, exercises the influence from which we desire to relieve ourselves, is, that upon any question in which she may feel herself interested, she commands the services of a majority of the members of the city delegation, even when it is apparent that there is some conflict between her views and those of the two other municipalities; upon this very question eight of the delegates are for consulting exclusively her wishes. I admire the indefatigable zeal which is a characteristic of her citizens—their incessant activity and constant energy. But I cannot admit their right to monopolize and to swallow up the whole political power of the city. How long has it been since this desire has been manifested to conform to her wishes upon this question? Only two days. One of the city delegation, (Mr. Roselius) animated with the desire of conciliating the interests of the two other municipalities, presented a proviso. The second municipality will not consent to any concession. Mr. Roselius withdraws his proviso. What does the second municipality want? The four senators—nothing more nor nothing less! And why? because she calculates that with the concurrence of the first ward of the first municipality, which acts in concert with her, she will be able to control the election of all four senators. Let us not be deceived. Here is the true secret of her opposition to the measure of districting the city.

But to conclude with the development of the tactics of the partisans of the second municipality, I suppose that they desire to realize the project of annexing the city of Lafayette to the second municipality, under the cognomen of Jefferson city. This project has been entertained for the last ten years. Who will prevent this junction when the second municipality, in concurrence with the first ward, will have the power of electing the four senators? It frequently happens that a candidate leaves the first and third municipalities with a heavy majority, which is completely overthrown by the votes of the second municipality, and in the first ward of the first municipality. Is it to be supposed that this striking difference will decrease? Let us examine the question as we may, I am convinced that to be just, we ought to give one senator, at least, to each municipality; and whoever will examine this question dispassionately—whoever is indifferent to ephemeral popularity, cannot come to any other conclusion. We are, however, ac-

cused of being unreasonable, and reproached with acting from passion. To this I may reply, that those charges belong to those who impute them to us; and as a test of their sincerity, when they disclaim so much against the division of the city, and express so earnest a desire to see it reunited under one administration, my colleague (Mr. Soulé) has introduced a provision having that very object in view. I predict, notwithstanding all their declamation, that now, that this question is presented to them, they will not sustain it. They have told us that the division of the city is one of the greatest calamities that has befallen our community. Well, they have the opportunity of effectually avoiding that calamity. Will they avail themselves of it? I am convinced they will not, and I defy any one of them to vote in favor of that proposition.

Mr. Roselius: The gentleman is mistaken; I will vote for it.

Mr. Marigny: Do not interrupt me. I have not like you, the talents of the advocate; and I cannot engage, like you, in a contest of joinders and rejoinders.

Mr. Roselius: You defied me to vote for the proposition. I wish you to know that I will vote for it.

Mr. Marigny: So much the better, and if you do vote with us upon this question, I will make you my excuses. But will your vote prevent the second municipality from intriguing and protesting? I repeat it, no one respects more than I do the indomitable energy of the people of the second municipality, and no one better understands their policy and their designs. They will not cede, and if we do not take the weapons out of their hands, they will treat us as already conquered. I know that there are some whose interests are concentrated in the second municipality, who reside in the first and third municipalities. But when you ask them where they reside, they will tell you that their country residence is in the first or in the third municipality; that their places of business are in the second municipality. And, in fact, it is there that all their interests, and all their affections are centred. Look at our lobbies. They are filled with persons from the second municipality. If you adopt the proposition of the delegate from Opelousas (Mr. Lewis) you will see that they will retire, filled with pleasure and satisfaction; even although they be convinced that we are right. They will say, well, never mind, Mr. Marigny and Mr. Soulé were right in principle, but we have carried our point. And yet I am accused of having acted with passion; I, who have never asked what was not just and reasonable.

Why, I would ask, do you refuse to accord to New Orleans what has been conceded to certain other districts in the country? The former district of Rapides has been divided into two districts; the district of Feliciana has been divided into two districts; the district of Attakapas has been divided into two districts, and an effort is making to divide it into three districts. Why then not divide the district of New Orleans? If we are to be denied the privilege of being heard in the senate, the only remaining thing to complete our servitude, will be an order to keep silent, and to allow ourselves to be swallowed up without uttering one word of complaint. These gentlemen measure majorities by the yard, and according as they increase their majorities they withdraw their amendments, in the hope of carrying their proposition as it was introduced. This reminds me of the feats performed by a man I met in Paris, who was denominated the king of the lions. He had four of those animals, with whose merits he alone was familiar, which he produced one after the other, reserving for the close of his exhibition the most formidable. My colleague (Mr. Roselius) has not the lions caged; they would be too difficult to manage; but he has serpents in his pockets, and he produces them one after the other. He has already exhibited three, and here he is with the fourth, which is to destroy us, if that can be done; for what is this proposition, but a rampant and venemous monster, that has penetrated into our city, to swallow up one part for the benefit of another? I trust that the members from the country will not allow themselves to be taken by surprise, by a policy which is so dangerous; but that they will do their duty, by rendering justice to the first and third municipalities, as well as to the second.

But, says my colleague, (Mr. Roselius,) and I quote his words, "I have met no one in the city who is favorable to this division." I do not desire to controvert the

inference from what he says; it may well enough be. I have too seen a large number of my constituents, and feel bound as much to believe the inference of my assertion, as I am to believe his. I declare solemnly, and every one must know that I am well acquainted with the lower portion of the city, that the masses in the first and third municipalities are decidedly in favor of the division of the city into senatorial districts; and I may add, that it is as natural for them to desire that division, as it is for the people of the second municipality to oppose it. The proverb says, that a bird in the hand is worth two in the bush. The certainty of having the privilege of electing one senator, at least, is preferable to the hope with which we are amused, of electing four. If the second municipality was sincerely disposed, as we are told, to allow the four senators to be taken equally from the three municipalities, she would not have opposed the measure of giving one senator to each municipality with so much violence; and her advocates would have accepted the amendment offered by the delegate from Jefferson, (Mr. Preston,) by which she would have secured the election of two out of the four senators, whenever she chose. She was, however aware that she would have the cooperation of the first ward of the first municipality, and hence her anxiety to have the election by general ticket, knowing full well that she could control the selection of four senators. Here is the true cause for the zeal she has displayed. If the number of electors were in proportion with the population, the first and third municipalities could maintain the contest, and resist the supremacy of the second municipality. But, inasmuch as total population is the basis of the right of representation, the number of electors is the means of realizing the proportion of political power; and as the second municipality has the greatest number of electors in proportion with the numerous families and persons of color, with the slave population that are found in the first and third municipalities, it is apparent that the result would be at the control of the second municipality. Hence the zeal of our adversaries. Hence her complaints, her outcries, and her menaces. I say her menaces, because men who had rendered themselves popular a short time before, have been vehemently denounced, perhaps even hung in effigy, because they would not sacrifice the interests and the welfare of the other municipalities. Let her storm as she may—let her make as many outcries as she may, and let her denounce as she may, men who would not yield their convictions at her behests! It is not I, certainly, a veteran of the tribune, that will quiver before such a storm. I would rather lose all the advantages of three months' popularity, and of services rendered, than to hesitate a single instant in my duty. If I should fall in the contest, so much the worse. But those even, that may triumph, will, sooner or later, appreciate my motives and do them justice.

It is for you, gentlemen of the country, to decide. Upon you will devolve the task of determining the controversy between the city delegation. Close your ears against the clamors that have assailed you, free yourselves from the influence of intrigues and passions, with which you may have been surrounded. Place your hand upon your consciences, and judge without fear. You are told truly that there is this difference between this section of the constitution and an act of the legislature, that one is submitted to the will of the legislature, and that the other controls the legislature. And it is in view of that difference, that I understand it, as well as the gentleman, (Mr. Roselius,) and that I ask you to determine our limits and our rights, so that the day after your adjournment, these guaranties shall not be touched. My arguments, I readily avow, are not so brilliant as those of my opponents, but they are the suggestions of an old experience; and it is from my heart that I receive that energy which sustains me in the position I have assumed. I am attached to the soil upon which I was born, and I do not wish to die with the conviction, that in a short time there will be left nothing but the ruins of that portion of Louisiana where first began the glory and prosperity of the State.

Mr. Saunders moved to lay Mr. Soulé's amendment on the table, subject to the call of the house.

Mr. Claiborne said that he was not opposed to the principle enunciated in the proviso offered by his colleague (Mr. Soulé.) He was disposed to accept it with

some modification. He thought however, it would be better to introduce the matter into a separate section, and to assign it a place in the general dispositions. Here is a form in which I would present the proposition:

Provided, that it shall be the duty of the legislature to unite and to constitute by virtue of a law passed for that purpose, two or more of the municipalities into one corporation, upon the application of a majority of their respective councils.

Mr. Culbertson said that he had always regretted the division of the city, and that he would be glad to see it reunited.

Mr. Soule called for the yeas and nays upon the motion of Mr. Saunders', to lay his proposition upon the table.

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Brumfield, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Labauve, Legendre, Lewis, McRae, Mazureau, Penn, Prescott of St. Landry, Preston, Pugh, Roman, St Amand, Saunders, Sellers, Taylor of St. Landry, Voorhies, Wikoff and Winder—35 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Culbertson, Eustis, Garcia, Humble, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Read, Roselius, Scott of Feliciana, Soulé, Stephens, Waddill, Wadsworth and Wederstrandt—25 nays.

Mr. Lewis: I do not rise with a design to discuss this question, but to put the gentleman (Mr. Marigny) right upon some matters of history. He has seen fit to refer to me, and to two other gentlemen, who were members of the house of representatives at the period, and upon the occasion to which he has referred. He has not drawn from his memory, but from his fertile and vivid imagination for his facts. I never certainly had the folly to employ the silly arguments that it has pleased him to put in my mouth. He has created a man of straw for no other purpose than the pleasure of showing his dexterity in demolishing this imaginary opponent! I cannot permit his remarks to go before the world, without a denial of their accuracy, at least as far as they are intended to apply to me. The only thing that is true is, that I favored the division of the city into three municipalities. The remarks which it pleased him to make upon the proceedings that he assumes took place in the legislature, are entirely out of place, and I should have taken no notice of them, had he not particularly alluded to me. I conceive that what we have to do has no relation to the past action of the legislature; and in this particular instance, if the legislature has done wrong in dividing the city, it will be in its power to rectify the error, provided that no constitutional restriction should supervene. If it be the desire of gentlemen not to put this matter beyond the power of the legislature, they will be particularly careful as to the action they may take upon the present proposition. If they sanction by a constitutional provision, the division of the city into three municipalities, how can they expect to re-unite the city and to do away with these local divisions? Will it not prevent the very object which they claim to have so much at heart? It will amount to an absurdity that a city divided into parts only large enough to be represented in a municipal body, should have its senatorial representation distributed among these different sections. The member (Mr. Marigny) has charged me and two others with being influenced in our course, because as he says, there were different kinds of population in the city. I never presented such an argument, nor do I remember to have heard it employed. He says, moreover, that the habits of the people residing in certain portions of the city are different—that in one section on Sundays they dance and sing, and that in another they participate in religious devotions to the God that made them. He asserts this to be a fact. I know nothing of it, and I leave him to maintain the assertion. I never alluded to any thing of the kind, and if I were to admit it, it would be entirely upon his responsibility.

The gentleman (Mr. Marigny) appears anxious that the city should be restored to its former state of a single corporation, and in the next breath he tells us that the differences between the municipalities are irreconcilable, and leaves us to infer that if the municipalities were brought together, it would give rise to a great deal of acrimony and dissatisfaction, and would lead to constant collision. He has said much

about a design, entertained, as he says, by the second municipality to unite herself with the city of Lafayette, and charges that municipality with a sort of moral cannibalism. I would request the gentleman not to point me out—I would thank him not to choose me as the subject of but and ridicule. In the exuberance of his fancy, and with a touch of his ridicule, he has singled me out as an object of attack. Hence I wish to correct him in the same journals upon which his remarks will appear.

In the views that I have formed upon the question under debate, I am not governed by any local considerations in reference to the first, second or third municipalities. I do not know what are their financial positions, nor their political predilections; nor is it necessary that I should have that knowledge, to the discharge of my duties in this body. Some gentlemen, who are more competent than I, have treated upon what constitute the real and essential differences between the house of representatives and the senate. I concur in the line of their arguments, and in their deduction, that if both bodies are elected by identically the same constituency, both in reference to persons and to territory, one of them becomes superfluous. It is an useless expense. It is having double chambers, one of which might well be dispensed with. For these reasons, I am in favor of large districts, and I have heard no good reason why the city of New Orleans should be an exception to a general rule of policy, deemed beneficial for the whole State. As to whether one or the other municipality should have the ascendency in the elections, that is to me a matter of superlative indifference. I care not whether it be the first or the third municipality, or both combined, that have the ascendency. The majority will govern, and that is the theory of our government; as to sectional divisions, they should have no weight with us, especially in the composition of a body which is designed to represent general interests. The matter before us is one of serious importance to the whole State. The senate should be so constituted as to act with certainty, by its gravity and wisdom, as a check upon the popular branch of the government. It must be essentially different in its organization to answer that end, from the more numerous and more fluctuating body; and it should represent a larger and more permanent constituency. It is for the benefit of the State that I desire to retain the conservative features of the senate, not only in reference to the country districts, but in reference to the city districts. There are permanent interests of the city as well as permanent interests of the State to be protected, and these interests fall appropriately within the peculiar functions of the senate.

As to the division of the city into municipalities, for which act in a legislative capacity, I have been most singularly arraigned by the member from New Orleans, to whom I have referred particularly in the course of my remarks, the reasons that induced me to sustain that measure, and which was participated in by the country members, was to create a spirit of emulation and rivalship between the great divisions of the city; and that object has been fully attained. The people of the country had reason to complain of the inconveniences to which they were subjected in their intercourse with the city, and they felt desirous to promote a remedy. The port in front of Canal street was visited only by small sail-vessels. Steamboats and ships were confined to a small space, while there was a large portion of the port unoccupied. There was no landing any where but in that particular and favored portion of the port, situated in the limits now comprehended as the first municipality. It was in that celebrated municipality, about which so much fuss is made, that the produce of the country had to be landed, and the owner could not land it where he pleased, but was compelled to go clear there, by some arbitrary ordinance of the city council. The business of the country with the city was cramped down by the petty regulations of a petty municipality, and the monopoly was shared by a few lords residing in that portion of the city. Many were the evils resulting from the abuses that had grown up with this monopoly. It was a common sight to see horses stalled in the streets, and while business could not command the facilities it required, the grass was growing up in the faubourg St. Mary. The people of that portion of the city complained that their resources were taken

from them, and expended with a lavish hand below, while they were left without any improvements. They declaimed again at that spirit of injustice, which left their portion of the city in a state of nature, and they asked to be entrusted with the management of their own affairs, and the disbursement of their own money. These complaints and the disposition to extend every facility to the growing trade of the city, induced me and others to vote for the division, and not the flimsy and ridiculous pretences that have been put in my mouth by the member who has forced me to this reply. It was to relieve the people of the second municipality from the iron yoke by which they were oppressed—and it was not only on their account, but I considered it a measure called for by the best interests of the whole State. I do not conceive that because the city has been divided into municipalities, that it must therefore necessarily be divided into senatorial districts. On the contrary, I conceive that there are as many and as solid reasons for not sanctioning the latter measure, as there were for sanctioning the former. Whether the city should be re-united under one corporation, is a question of policy for the legislature hereafter to determine; and I repeat that if the gentleman and his friends are sincere in what they have advanced upon the expediency of that measure, they will do nothing here to interpose an insuperable obstacle.

Mr. Marigny: the delegate from St. Landry (Mr. Lewis) has told you that in order to place him in a ridiculous position, I have put in his mouth arguments that he never employed. To this charge I will respond by a simple fact. The discussion upon the subject of dividing the city into municipalities continued for more than fifteen days. That gentleman declared himself warmly in favor of that measure, and as the passion, I may say, the fanaticism that animates him in debate, is a mystery to no one, while it will be conceded that if I am not brilliant in my discourses, I never abandon the rules of politeness. I would ask, how is it possible in a debate of fifteen days, when he was at issue with his adversaries, and was excited with them on that occasion, as he has been to-day, that he could have forgotten his wonderful facility of speech, and given merely a silent vote? He was no more then deaf and dumb than he is now. I can assure you, gentlemen, that if I were to repeat one-half of what he did say on that memorable occasion, you would have to make your arrangements to remain here all night, for I would certainly entertain you until to-morrow morning.

Mr. Soule: whatever repugnance I may feel in addressing the Convention again upon this vexed question, and I may add, in a language with which I am not as familiar as I would desire, I feel bound by the duty that I owe to my constituents, to express my views and opinions upon the debate that has been excited by the clause under consideration. It will be remembered that from the very commencement of this discussion, at its very outset, I assumed the position that the division of the city was the greatest curse that could have befallen it; that, notwithstanding the general opposition it met with from the entire population below Canal street, it was nevertheless carried, and that it was now an accomplished fact! The consequences of that act have not been denied. I further had the honor to remark, that if the measure advocated by my colleague from New Orleans (Mr. Roselius) was calculated to do away with the consequences of that division, and to supersede those ill feelings that were unfortunately its concomitants, I was ready to yield to it. Such was my position then, and such is the position of my friend and colleague who has just resumed his seat. We did assert, and we do assert, that if we can be met with any thing like fairness on the ground that the unity of the city would be preserved by the adoption of the clause under consideration, we are ready, in a spirit of reciprocal fairness, to yield to that proposition. But, sir, to bring the question to a proper test, in order not to leave in the minds of any the least room for doubt, what have we done? We have proposed to the Convention a clause by which it is made the duty of the legislature that shall assemble immediately after the adoption of the new constitution, to do away with these local divisions—to pass an act restoring the city to its former state, with a single council and a single administration. When that clause was before the Convention, my friend and colleague asserted boldly, but truly, as experience has

shown, that out of the entire delegation who had spoken so much about the unity of the city and the identity of its interests, there were none, and at all events but one that would sustain that proposition. I applaud the gentleman that gave his vote in its favor for his firmness and sincerity—it established that he was at least consistent with himself and with what he had advanced in the debate! He was the only exception among those that assumed yesterday one position, and deserted that position to-day. The motion to lay my proposition upon the table, was an ingenious attempt to avoid the painful position of controverting one moment after, what had been assumed in debate a moment before. That was the object contemplated; that was the object to be attained. There were not two among the advocates of a general ticket for the election of senators for the city, that were in favor of re-uniting the city under one municipal government. This fact will stand in bold relief in the records of the Convention! Let not gentlemen suppose that the people are deceived; that the dilemma in which they were placed has been artfully avoided. The fact is well and conclusively established, that after having exhausted the subject—that after pressing upon the Convention the unity of the city, and deprecating the division of the city into municipalities, there are not two in favor of re-uniting the city, although they have told us over and over again that there are no conflicting interests, and to suppose that the city has divergent interests, is only a stretch of the imagination. These are their arguments on one side, and there stand their votes recorded on the other; not upon the direct question, it is true, of re-uniting the city, but upon the question to evade that proposition when it is directly presented to them as the test of their sincerity? That vote cannot be expunged. It speaks volumes.

If that be the true position of the case, the question of unity is done away with. We have been beaten,—conqured upon the very ground that they assumed, of the unity of the city; and our efforts, stimulated by their professions, to attain that object; to restore to the city its former organization; to expunge the feature of a division of feeling, a division of interest, and a division of sentiment, have proved unavailing. My honorable friend who treated us yesterday with a discussion upon the proper organization of the senate, (Mr. Grymes) gave us some exploded notions as original suggestions upon the theory of government. He placed the question upon the unity of the city, and yet of all the votes that appeared to favor that argument, there was but one that came to us this morning. Let gentlemen explain the inconsistency of their votes with the arguments that they have assumed. I will now advert to some of the grounds upon which they have placed this question in their debate. We have been told by the gentleman to whom I have just alluded, (Mr. Grymes) that unless we adhere to this last spot—this last dyke—that unless we preserve territorial representation, there is an end of all honesty, and a total revulsion of social order. Gentlemen have told us an hour ago, that territorial divisions are done away with; that we have nothing to do with it. Are we to recur to what has been settled by a direct vote of the Convention? If we are to discuss the subject upon territorial apportionment, let us have it in its proper form. The question before us has nothing to do with considerations of territory. We have determined that total population should be the basis of apportionment in the senate—not territory. This basis was proposed by a gentleman opposed to us on this question in one of the suggestions comprehended in the compromise offered by him. I allude to my colleague, (Mr. Benjamin.) I was opposed, with gentlemen on the other side of the house, to that basis, but it was nevertheless carried by the majority; therefore territory, federal population or white population, has nothing to do with our decision of this question. We are to be governed by total population alone.

The arguments of the honorable delegate, (Mr. Grymes) if they fall, as they do, within the question of territory, are fanciful—they are in an inverse sense, and are not applicable to the basis that has actually been adopted. But the gentleman may be excused; he has been absent occasionally from the debates, and it is quite possible that the decision of the question as to the basis has escaped his apprehension. The question of territory having been altogether superseded, the apportionment should be made in conformity with

the principle of uniformity and equality, that we have explicitly consecrated; and it results from that principle, that numbers alone are to be considered in the distribution of political power, so far as the senate is concerned. Equal numbers are to have equal representation. If we speak of uniformity in districting representation, it must be understood to apply only as far as uniformity be practicable. The same may be said of equality.

I have never heard any objection to this, if I except the objection made by the delegate from Lafourche, (Mr. Beatty.) That gentleman proposed to preserve the integrity of the parochial limits. I thought there was great propriety in maintaining their integral limits as he suggested, and that he was right in principle. I apprehended, however, that it would not be carried into practice, and the decision of the Convention fully confirmed me in my anticipations; from hence I inferred that the question was determined in relation to the district of Orleans to the other districts. The principle of apportionment for the senate being total population, we have only then a mathematical calculation to make to carry out the representation among the several districts. The total population of the State is placed at five hundred and twenty-two thousand two hundred and eighty-five souls —allowing that it is within one hundred thousand of that number, which it actually is—it may be estimated at four hundred and fifty-two thousand two hundred and eighty-five souls. That number divided by thirty-two, the number of senators, will give fourteen thousand one hundred and seventy-three as the representative number, or in other words, the population entitled to a senator. But by reason of the restriction placed upon the city in the senate, there is an inequality in the representative number for the city and for the country; and if we deduct the population of New Orleans from the aggregate population of the State for the purpose of ascertaining the relative number for both, we find that in the country a population of about twelve thousand five hundred and seventy are entitled to one senator, while in the city it would require about twenty-four thousand five hundred and eighty. By comparing these results with the results of the basis of electors, chosen for the house of representatives, we find that the proportion is about one-third to entitle a population to a representative to the lower branch of the legislature—that is to say about one-third of fourteen thousand one hundred and seventy-three. If this criterion be true, its application to the three municipalities will not be difficult. We find that the first municipality, according to the census of 1840, had a population of forty-three thousand five hundred and forty-six, she would be entitled then to two senators; while the second municipality, if the proportion were observed, would not be entitled, with her population of twenty-one thousand and twenty-three, to more than one senator; and the third municipality, with a population of twenty-nine thousand one hundred and sixty-eight, would be entitled to one senator.

The result from these calculations is clear, or figures are not to be relied upon. The proportion, if the city is to be divided into senatorial districts between the relative number of representatives and senators allowed to the municipalities, would be as follows: Nineteen representatives have been allowed to the city of New Orleans, which have been distributed in this proportion—eight to the first municipality, seven to the second municipality, and four to the third. By allotting the number of senators contemplated by the report of the minority, in proportion to the number of representatives a constituency entitled to four representatives would be entitled to one senator. How would this proportion stand in relation to the city of New Orleans. If one senator were allowed to the first municipality, the proportion would be one senator to eight representatives, and if one senator were allowed to the second municipality the proportion would be one to seven, and for the third municipality one to four. If we must needs realize the pretended feature of a larger constituency for the senate than for the house, I would ask those who object to the division of the city into senatorial districts if that condition is not here fully established. The local interests of each municipality will be represented by several persons in the house of representatives, while they will have but a single representative in the senate.

I now recur naturally to the true physiognomy of the city. It presents three dis-

tinct cities under one common name, with little or no unity, and that by the constant struggle between their relative interests, more especially between the second municipality and the other two. From what fell from the gentleman from St. Landry, (Mr. Lewis) it would be supposed that the means of the old corporation were squandered for the profit of the city proper, while the grass was allowed to grow in the second municipality—that not one cent was appropriated for the improvement of that municipality. The gentleman must have been very sparing of research not to have enlightened his mind by a reference to facts when that consideration induced him to vote for the division of the city; and he must be still more sparing of research, to labor still under the same delusion. It is a notorious fact, that the old corporation possessed, at a period anterior to that when the city was divided, several millions of dollars. In 1828 the second municipality had not began to exhibit those wonderful signs of improvement which she displayed in 1834. It was at the latter period that she commenced her giant career which has been attended with such a wonderful prosperity. When the division took place, the wharves in that municipality were already effected out of the resources of the city proper. Had the gentleman from St. Landry (Mr. Lewis) examined the records he would have become convinced, that so far from the fonds of the old corporation being employed to ameliorate the city proper, they were exclusively devoted to improvements in the faubourg St. Mary. In 1830, when I became a member of the city council, sixty thousand dollars had been appropriated to paving in the second municipality, and while Royal street, the second street then in importance, was left unpaved, Natchez street, a little alley in the second municipality, was already paved.

The fact is notorious; the city proper was left without any improvements, while all the resources of the old corporation were diverted and expended to the benefit of the second municipality. The representatives of the city proper in the council, were for the most part of the old school, good, honest, ignorant, if you will, for they did not wish to go farther than their resources, and were unwilling to contract debts which they might be hereafter unable to pay. The second municipality were drawing from the coffers all the revenues of the city. In 1827 there was a fund created for the paving of the city; two cash accounts were opened, one for the first municipality, and one for the second and third. It was intended that each section should have its relative proportion. When I was elected in 1830, I endeavored to discover the traces whence this money had been expended; I found nothing but one general cash account, and the only means I had of ascertaining how it had been expended, and where, was to walk through the streets of the city; I found that nothing had been done below—all had been done above. When the municipalities were united there were no improvements deserving the name, made in the square of the city, while every thing was going ahead in the second municipality. Now, what is the position of the city proper in relation to the second municipality? From the first to the last of the centre of the squares of the city proper have been paved; her debt has disappeared in the ratio of her improvements; and the second municipality, that has no longer the coffers of the old corporation to drain, have contracted a debt of three millions of dollars. When she found that all the money was exhausted she set up for herself; she has created excessive taxation, and has been unable even with that taxation, to put a stop to the accumulation of her liabilities.

So far then from meriting the accusation that the revenues of the second municipality under the old corporation were diverted from that municipality, it is susceptible of proof that she received in appropriations for improvements, ten times as much as she paid. That shows that the people of the lower portion of the city were never deficient in generosity. We are told to be on our guard. That the second municipality is destined to absorb the political power of the city. We are told that the next census will show the weakness of the first and third municipalities; and in the pleasing visions of the prospective we are told that if we will behave ourselves and not insist upon anything, but throw ourselves upon their generosity, it will be better for us. Experience has shown that we have nothing to expect from their generosity. Generosity? We

ask nothing but justice. I care little how what I may have said shall be received in certain quarters. There is no consideration under the cap of heaven which would induce me to remain silent when it is proposed to despoil a certain portion of the city—perhaps the weakest—of those privileges, and those immutable rights to which it is entitled. If in the course of events, the second municipality should attract the mass of the whole population—if our streets are deserted—let them enjoy to its fullest extent, all their prosperity. Let them have it. I claim it for them as I would claim it for us. If there be no cohesion of interest between her and the other municipalities, let her remain separate and distinct. If you have satisfied yourselves that there is this identity of interest, I know not how I can sufficiently admire the logical manner in which you have voted upon my proposition to re-unite the city. If voting in this Convention be not a miserable manoeuvre, let us have a direct vote upon that question. My vanity will not be wounded by a defeat, nor shall I exult at a victory. My political life is at an end, and brief as it has been, I may respond to those who accuse naturalized foreigners of an over weening ambition, that I have seduously refused all offices of public trust. That in the present instance, I was constrained to give a reluctant consent, and that no ambitious thoughts find a refuge in my breast. I have given up all such desires if I ever entertained them, and if they have entered my heart, it has been but for a short time. Had I the power to retrace my steps, surely, surely I would retire from this hall, to which I have been delegated by the partialities of my fellow citizens, before this question was put. Let us determine calmly—dispassionately, without regard to political considerations, and that justice, justice alone may be done. If there be but one identical interest between the municipalities, it cannot be impaired by allowing them separately to choose their senatorial representation. If it is true, as has been assumed, and must be assumed, that there is a perfect concord and harmony between the municipalities—that one will not seek to despoil another of the right of being heard in the senate, where is the danger of conceding to each the privilege of electing its senator? If there is to be any collision, then the argument is unfounded—it is a sophism that destroys itself. But is there really that identity of interests? I say there is not, and in confirmation of what I advance, I appeal to unerring history. I appeal to the law itself dividing the city into three municipalities. There it is. The most eloquent speech that could be pronounced to refute the arguments of gentleman that the interests of the city are one and identical. It is the ground work of the division, and it must convince the house that there is none of that identy about which we have heard so much. A law is nothing but a translation of the feelings, prejudices and passions of those who called it into existence. Every word of this law bears the stamp of prejudice, passion and feeling. Here is the text:

Be it enacted, &c. That the city of New Orleans is hereby divided into three different municipalities, each of which shall be vested with distinct powers. Each of which shall have the exclusive right within its respective limits to regulate its own affairs, and to make such ameliorations and improvements as it may think proper.

We are told in the first line that the city shall compose three distinct and separate municipalities. Here is a proof of the diversity of feeling and interest; secondly, that the power to make ordinances shall be exclusive, and that an ordinance passed in one municipality, shall have no force beyond that municipality. The division is perfect and complete. The law speaks in a louder voice than mine. Have we one city? I do not dispute upon words, but the thing itself has ceased to exist. We have three cities. It is true that there is but one general name, but why is it so? It is entirely attributable to the fact that the city of New Orleans was recognized in the old constitution. When the division was proposed, it was suggested by those that exclusively favored the measure—some of the prominent citizens of the second municipality—that the faubourg St. Mary should be established as a city, and they had already appropriated to it the name of Jefferson. A place was assigned for the court house, and every thing was prepared for the selection of its civic dignitaries; its mayor, as well as its board of council. All these arrangements were in part frustrated. But the second municipality obtained the

thing without the name. The city was divided, but its name was retained.

We have been repeatedly asked in what respect any conflict between the three municipalities can arise? I will reply that upon one subject of great importance—the appropriation of money. It is natural that the senators coming from a particular quarter of the city, should have its interests more peculiarly at heart, and that it will in the distribution of public favors, consult that section. But we are told that there is no proof that the second municipality will appoint the senators. If we had no proof yesterday, we have got proof now. If she did not desire and was not aware that she could control the election of all four senators, would she not have acceded to the proposition that allowed her two? If she had shown any such disposition, I might have been condemned to silence, and in that partial distribution I might have left my reflections to the recesses of my mind. The conviction forces itself upon me that she wishes the appointment of all four senators. Perhaps if we had behaved well and not have evinced too much reluctance, she might have consented to make some terms with us. But that hope is fled forever. We have had the boldness to assert our rights, and to revolt at the injustice which was about to be done. There is one more consideration, and it is one which I shall support to my last breath. It holds no connection with political aspirations, but proceeds from the depth of my heart. When we cast our eyes about us we must admit that we are but strangers in this land of Louisiana. In looking around this Convention, the painful reflection is forced upon us that out of seventy-seven members, there are only eighteen coming from that population that once had property and every thing, that were possessors of this vast territory. They have yielded to the iron rule of time, and all that they ask of this new and unconquered population that have covered the land, is to be heard. They do not ask it as an act of generosity, but they ask it as an act of justice. Will you listen to their demand? That is the question.

Mr. Roselius had one word or two to say in reply to the insinuations about the purity of the motives of those who differed in opinion from the gentleman that had just addressed the Convention, and another gentleman that preceded him. From the language spoken by these two orators—and it appears to be susceptible of but one interpretation—it might be understood that I and others of the delegation of the city, are acting upon this question as the peculiar advocates of the interest of the second municipality. I am at a loss to conceive what grounds there are for any such suspicion. I utterly repel it. I stand upon this floor as the representative of the whole city; I am not the advocate of sectional interests, if there be any, which should claim the attention of this body; I am not the advocate, at any rate, of the interest of one portion of the city, to the detriment of another portion of the city. The insinuation, therefore, is gratuitous; and if the gentlemen had reflected, instead of inferring any inconsistency on the part of others, they would have been convinced that they were inconsistent themselves; for if the proviso which I introduced was so important, why did they not vote for it? Both of the gentlemen have made it the ground-work of their arguments, and they both voted against it. Why do they insinuate that we are led by the second municipality? I profess to lead no man, nor am I led by any one. I am one of those that do not recognize the right of instruction, and if the whole city were to instruct me upon a matter where my mind had come to a conscienceious conclusion, I would rather resign than to violate what I conceive to be right. But I am told that my proviso did not suit the second municipality; from what fact do the gentlemen draw that inference, who voted against the proviso? I declared that I cared little or nothing for it. Is that a sufficient reason to intimate that I and other gentlemen are operated upon by the second municipality? Why, I declared it was of little importance. I felt assured that no provision was necessary, for the municipalities themselves would see the propriety of taking the senators from the different sections of the city. I do not intend to enlarge upon this subject, nor do I wish to occupy the time of the Convention. But I again challenge the gentlemen to point out one solitary question of general legislation, where there is any conflict between the municipalities. I challenge them to adduce it. They have attempted it, but it has

proved abortive. The last eloquent gentleman has referred to a question of the distribution of the public funds. If one section should attempt to obtain an appropriation to the exclusion of another section, would that be a question of general legislation? Does the gentleman pretend that this is answering my question? It is not. This is not a question, I repeat, of general legislation. It is not to be presumed, that if it was an act of glaring injustice to the others, the appropriation would not be made. I think that the division of the city would inflict a deadly blow upon its interests, and I have heard nothing to induce me to change that opinion.

The question was then taken on Mr. Lewis' proposition to elect the four senators allotted to the city, by general ticket.

Mr. Soule called for the yeas and nays.

Messrs. Aubert, Benjamin, Boudousquié, Brumfield, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Stephens, Taylor of St. Landry, Voorhies, Wadsworth and Winder—33 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Culbertson, Downs, Garcia, Humble, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Feliciana, Soulé, Trist, Waddill, Wederstrandt and Wikoff—30 nays.

Mr. Soule gave notice that he would move for the reconsideration of the foregoing vote.

Mr. Trist gave notice that he would move for the reconsideration of the vote, upon constituting St. James and Ascension one senatorial district.

Mr. Splane, in pursuance of previous notice, moved for the reconsideration of the vote constituting St. Mary and St. Martin one senatorial district.

Mr. C. M. Conrad: the gentleman has made this motion already, and it failed.

The President said that the motion was in order, inasmuch as the whole section was before the Convention.

Mr. Splane said he had a few remarks to make why he thought that St. Mary should be constituted into a separate senatorial district. I had understood that the senatorial delegate of the county of Attakapas would have sustained my proposition, and that it would be sustained by the majority of the delegation. To my utter astonishment I have found that there is only one of the delegates, the delegate from Lafayette and Vermillion, that is in favor of it. Why I have been abandoned by the other two, I have never inquired. I am in favor of small districts, and this measure is not only satisfactory to me on account of principle, but on the score of expediency and the general wishes of my constituents. They do not wish this connexion, and without distinction of party they are in favor of its formation into a separate district.

Mr. Benjamin suggested, that inasmuch as the delegation from Attakapas were not all present, it would be better to postpone the further consideration of the subject until to-morrow, at 12 o'clock.

Mr. Spane acquiesced.

Whereupon, the Convention adjourned.

Wednesday, April 9, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer from the Rev. Mr. Clark.

Mr. Garcia moved that the reading of the journals be suspended.

Mr. Wadsworth rose and said:

Mr. President—It is with deep feelings of regret that I announce to you the demise of one of our colleagues, the honorable Gilbert Leonard. I have known him for twelve years intimately, as a brother. He was a man of strict honor and integrity. His word was his bond. He never violated his integrity, nor wrongfully injured any man. No one could ever charge him with a mean or dishonorable action. He had his hardships to undergo, but by his indomitable perseverance and energy he overcame them. Although allied to one of the first families of the State, he had in early life to struggle against the afflictions of poverty, and in the school of adversity he acquired those high and noble qualities—that high and chivalrous devotion to his friends—that noble and impulsive generosity that so much distinguished him, and which endeared him to all who knew him. To his own exertions he was indebted for the high position he attained. He was pure of morals, temperate, exem-

plary—in all the relations of life he was estimable. Long and deeply will his untimely end be deplored. I feef, Mr. President, that I am unable to proceed. I cannot repress the emotions with which I am filled at this sad and melancholy bereavement.

Mr. Marigny said:

Mr. President—I rise under the influence of the most painful emotions, to add my feeble voice to the tribute rendered to the virtues of our deceased colleague. It is committing to the most profound sorrow, the task of exalting the purest friendship. Gilbert Leonard is no more! His career was at once brave, honorable and generous.

Scarcely had he attained the age of manhood, when, escaping from the college of Orleans, where he had been placed by some friends of his family, he volunteered his services in the defence of his native State, to drive back the British legions. The contest being gloriously terminated, he returned with the laurels of valor, but poor, and compelled too seek the means of subsistence. This painful position, instead of disheartening him, raised and exerted his energy. He assiduously applied himself to labor, and by patient industry sought to create for himself a more brilliant future. It was during this period of trial that he became acquainted with Judge Williams of the parish of Plaquemines. That gentleman was so much pleased with him that he employed him in the capacity of clerk of the court, and he was so faithful, and so intelligent, that upon the resignation of Judge Williams, he was raised to the bench, at an age when most men vainly aspire to such an honor.

From that period, his position placed him in contact with the citizens of the parish, and he succeeded in conciliating the esteem, the respect and confidence of all; and, notwithstanding the clamors of politics, which sometimes leads astray the judgment, all regret and deplore his loss, as a public calamity; and all unite in rendering to him the praise, that he was the friend of the poor, the protector of the widow, and the father of the orphan, for whom he frequently relinquished his salary.

I have said that courage with him was a natural impulse. When the Seminole war broke out, he raised a force of one hundred and fifty men, and offered himself and his command to the service of his country. In every capacity, whether as a citizen, a judge, or a soldier, he proved himself to be a patriot. His elevation to the judicial dignity was an evidence of his civic worth. His military promotion was due to his valor, his discretion and his judgment. The people honored and appreciated his talents. They, too, named him to public employments. He was chosen a member of the Baltimore Convention; subsequently an elector of President and Vice President, and but recently a member of this body, whose walls now reverberate with our unavailing regrets for this sad and painful calamity.

He had reached the fruition of all earthly expectation and felicity, when an unfortunate fatality terminated his career. An affair of honor, in which he exhibited, as well as his adversary, a noble courage, and a ganerous delicacy, opened this period of sorrow. The mutual friends of both parties succeeded in effecting an honorable arrangement, so that no one could for a single instant suppose that either merited the slightest blame, the least censure, and just as it was hoped he was restored to that happiness of which he was so deserving, another affair arose, which he might have avoided without compromitting his honor; he conceived that his honor was assailed, and ceding to the impulse of his chivalric spirit, he repaired at the call of honor—and found his grave. He has been taken from among us! This Convention mourns the loss of a member that it esteemed—the State deplores a faithful public servant—society has been deprived of one of its brightest ornaments—his afflicted family of a noble heart—and I, Mr. President, of a generous and devoted friend, whose loss I shall never cease to deplore.

Mr. Wadsworth then moved the adoption of the following resolutions:

Resolved, That this Convention has heard with deep regret the news of the demise of their colleague, the honorable Gilbert Leonard, in whose death Louisiana deplores the loss of an able and faithful servant, and this Convention one of its most respected members.

Resolved, That the family of the deceased be requested to deliver over his remains to be buried by the Convention, and a com-

mittee be appointed to consult with the family to that effect, and make the necessary arrangements for the funeral.

Resolved, That the members of the Convention wear crape for the space of thirty days, on the left arm, a token of respect for the deceased.

Resolved, That as a mark of respect for the deceased, this Convention do now adjourn until to-morrow morning at the usual hour, and that a copy of these resolutions be transmitted by the secretary to the family of the deceased.

The PRESIDENT appointed Messrs. Wadsworth, Carriere, Garcia, Saunders and Downs members of the committee of arrangement.

The Convention then adjourned until to-morrow at 10 o'clock, a. m.

THURSDAY, April 10, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

Whereupon, on motion of Mr. BRENT, the Convention adjonrned until to-morrow at 10 o'clock a. m., to allow the necessary arrangements to be made for the funeral obsequies of the honorable Gilbert Leonard.

FRIDAY, April 11, 1845.

The Convention met, and its proceedings were opened with prayer by the Hon. Mr. STEPHENS.

Mr. HUMBLE offered the following:

Resolved, that from and after the 14th instant, the Convention shall meet at nine o'clock, and the roll shall be called at that hour, and the names of the absentees shall be marked on the journal.

Mr. Humble said that it was now near 11 o'clock, and yet the hour of meeting was fixed at 10 o'clock. Mr. Humble complained that the business of the Convention was not sufficiently expedited. If we are not more zealous, said he, we shall never get through with the duty assigned us.

Mr. LABAUVE stated that the meeting at nine o'clock was fixed by one of the rules of the Convention.

The PRESIDENT said that the resolution would have to lie over under the rules.

Mr. WADSWORTH moved the dispensation of the rules, and his motion prevailed.

Mr. BENJAMIN thought it would be extremely inconvenient to meet at nine o'clock, and that it would be impossible to secure a quorum by that hour. He suggested to the mover to modify his resolution, so as to provide for evening sessions.

Mr. HUMBLE said he had but little faith in these evening sessions; the experiment had been made and abandoned once before. He would however, yield to what appeared to be the general wish of the Convention.

On motion of Mr. BENJAMIN, the above resolution was so amended as to have two sessions, one in the morning at ten o'clock, and the other in the evening at five o'clock; which was agreed to.

Mr. CHINN offered the following resolution:

Resolved, that this Convention adjourn on Monday, the fifth day of May next, *sine die*.

The above resolution not being seconded, the Convention passed to the

ORDER OF THE DAY.

SEC. 10. Apportionment of the senate.

Mr. SPLANE renewed his motion to separate the parish of St. Mary from the parish of St. Martin, and to establish the former into a senatorial district, with one senator.

Mr. ROMAN: I am opposed to the motion of the delegate from St. Mary. I do not rise to discuss the policy or expediency of large districts. So much has been said already on that subject, that I will not offer any thing more. But I would inquire, when are we to get through if every question is to be reconsidered, and every step we take is to be retraced? Is all the labor and all the discussion we have had upon this prolific theme, to amount to nothing? I thought that the only question that was open in the apportionment was in relation to New Orleans, and that this question being settled, the vote would be taken *pro firma* upon the adoption or rejection of the section. If we are to progress in the way that I see indicated, we shall never come to a conclusion. If the district composed of St. Martin and St. Mary be divided, the advocates of small districts will not stop there. They will go to Lafourche, and insist that it be divided—to Ascension and St. James, and will finally come back to New Orleans—that great

bone of contention. After getting through again, the house will in all probability, be in no better mood to settle this matter, and another circuit through it will be made. To put a stop to this course of proceeding, I shall move to lay the motion of the gentleman (Mr. Splane) indefinitely on the table, to test the sense of the house.

Mr. Dunn: I shall sustain the motion. I do so because it is my firm conviction that otherwise our labors will be interminable. My district was divided against my wishes, but I am disposed to acquiesce. If the body of the Convention could be brought together and kept together, there is a decided majority in favor of large districts. I am willing to leave my district where it is, because its division has not met the support of the great majority of the delegation from the two parishes interested. But I hope that other gentlemen will evince a similar disposition in reference to their districts, and let them remain as they have been decided. I feel confident that if the subject is again opened, there is no knowing where it will stop. If we open it in one place, we shall have to open it in another. If gentlemen persist in their course, I shall move for the reconsideration of the vote dividing the district, although I am very willing to leave that and all other questions in the apportionment as they have been settled. I have no disposition to open the subject, but if it be opened, I shall endeavor to carry out my plan of large districts.

Mr. Splane: I do not design to argue the question; but it really appears to me that I would not be doing justice to myself or those that sent me here, were I not to express their earnest desire that the parish of St. Mary should be separated from the parish of St. Martin. In the election of senators it has so happened that the parish of St. Mary never had the opportunity of electing one of her own citizens but once, when Mr. Crow was returned to the senate. As far as population was concerned, the parish of St. Mary had the superiority over St. Martin, and in every other respect the claims of the former to a senator were equal to those of the latter. It was the wish of the people of St. Mary, and he would not cease to urge that wish.

In reference to the separation of St. James and Ascention, that matter is not now before the house, but when it does come up, I shall vote in favor of it, upon principle; and in the second place to sustain the views I have heretofore expressed.

Mr. Derbes: The reason why I have voted in favor of constituting the senatorial districts at least of two parishes, is, because I consider that the senate should represent general interests, in contradistinction to local interests, which are properly committed to the house of representatives; and therefore the constituency ought to be large. If this distinction is to be superseded, then I consider the senate will become useless, for, representing the same constituency, it will be nothing more than a counterpart of the lower house. But in this particular case, is there any necessity for the division of St. Mary and St. Martin? I think not. Their population pursue the same kind of agricultural industry, have the same habits, and the same politics. It has been intimated that if the division does not take place, St. Martin will invariably choose the senators. I acknowledge that, up to the present time, the senators have not been chosen in the parish of St. Mary; but that has been from the circumstance that no candidates offered themselves from that parish. Had such been the case, the result would have been different. At any rate, what has not occurred heretofore, is not precluded from occurring hereafter. The district will consist of fewer parishes. Candidates may be selected from St. Mary, as they have been selected from Lafayette. I am ready to concede that the delegate from St. Mary (Mr. Splane) has consulted with some of the more influential and intelligent of his coparishioners, who favor the division. But I have also seen many who are opposed to that division. At any rate the question is a doubtful one, and should not be decided in the absence of any portion of the delegation from the county of Attakapas. If the gentleman (Mr. Splane) insists upon taking the question to-day, I shall give notice of my intention to move a re-consideration of the vote in its favor—for I have no doubt, from the thinness of the house, it may pass to-day.

Mr. Cade: When this question was first taken up, I voted in favor of uniting the two parishes, because I was given to understand that such was the desire of both

But having since understood that the people of St. Mary are in favor of the division, I will vote in favor of it.

Mr. BRIANT: If you sanction this division, what kind of a representation will the parish of St. Martin have in point of equality. The territory of St. Martin is nearly double as large as the territory of St. Mary, and the population is more numerous—the only difference in favor of St. Mary is that she has more slaves, and contributes a little more in tax. But supposing that the difference in the two latter particulars would give to St. Mary the right of a senator, the difference in population in favor of St. Martin, would give to the latter two senators, upon any fair system of equality.

The territory, too, of St. Martin, is now extensive. I arrived yesterday from that section of the State, and I can assure the Convention that the parish of St. Martin is making rapid progress, and is fast accumulating population. As for the information communicated by the delegate (Mr. Splane) I do not deny, but I am well aware that during my sojourn in Attakapas, I did not hear one word in favor of his proposition. I shall certainly vote against his proposition, if it be not postponed; which I should prefer on account of the absence of a portion of the delegation.

Mr. SPLANE: I will reply to what has fallen from the gentleman by incontrovertible facts. According to the census of 1840, the total population of St. Mary is eight thousand nine hundred and fifty. The total population of St. Martin is eight thousand six hundred and seventy-four. Inasmuch, however, as the basis of electors, which has been adopted for the house is most favorable to St. Martin, she has three representatives to the house, and the parish of St. Mary two. But by the basis for the senate, total population, the result is most favorable to St. Mary, and she is better entitled to one senator, by reason of her greater population, than St. Martin. The lands in St. Mary are richer, and she will abound in greater wealth. Every thing considered, their claims are equivalent to one senator each, and that has been allowed them. The only question is, whether they should have the privilege of electing one senator respectively, instead of electing two jointly. If the will of the people is to have its just weight, the house will accede to my demand.

The yeas and nays were called for on Mr. Roman's motion to lay Mr. Splane's motion on the table.

Messrs. Benjamin, Bourg, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Hudspeth, Labauve, Legendré, Lewis, Mazureau, Prudhomme, Pugh, Roman, Saunders, Sellers and Winchester—22 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Cénas, Downs, Eustis, Humble, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Trist, Waddill, Wadsworth, Wederstrandt and Winder—30 nays.

Mr. SPLANE then moved the adoption of his motion to create the parish of St. Mary into one senatorial district.

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Cénas, Downs, Eustis, Humble, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Trist, Waddill, Wadsworth, Wederstrandt and Winder—30 yeas.

Messrs. Benjamin, Bourg, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Hudspeth, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, Saunders, Sellers and Winchester—21 nays.

Mr. WINDER explained that he had voted in the affirmative, to respond to the wishes of the people of both parishes, especially St. Mary. He understood that they were in favor of the measure, and this was a matter in which the public convenience and the wishes of the people ought to be consulted and respected.

Mr. DERBES gave notice that he would ask for the reconsideration on Thursday next.

Mr. DOWNS moved to strike out the words "no parish shall be divided in forming a senatorial district." These words were unnecessary, inasmuch as the same principle was embodied elsewhere in the section.

Mr. BENJAMIN called for the reading of the two clauses to which Mr. Downs referred.

Mr. Benjamin: The gentleman will perceive that the first clause has reference to new parishes alone. The second clause which he would strike out, applies to old parishes. Both ought to be preserved. I should like to know if it is the design of the gentleman to confer upon the legislature the power to divide the old parishes of the State in forming senatorial districts at future apportionments. If that be the gentleman's object, I would be glad he should so state it. If his motion to strike out prevailed, the legislature would have the power to divide the old parishes at will, in making the senatorial districts. That was a power which I expressly understood it to be the sense of the house expressly to inhibit.

Mr. Downs: There is no difficulty in understanding my motive. I do not wish the legislature to have the power to divide any district, with the exception of the district of New Orleans. To simplify my motive, I would propose to add the following: "No parish shall be divided in the formation of senatorial districts;" the word New Orleans excepted." If New Orleans be not divided now, she will be divided hereafter, and be made to compose more than one senatorial district.

Mr. Benjamin: It seems that the clause which the gentleman from Ouachita moved to strike out, was not as useless as his remarks accompanying that motion would have led one to believe. The real object, when disguise is no longer possible, is announced to be an attack upon the city of New Orleans, I had my misgivings when the gentleman made his motion, and I anticipated some covert attack, and hence I called for the reading of the two clauses, so as to see whether they were really as stated by the gentleman, but a repetition of each other. I was not deceived! It is my deliberate conviction that the intention is entertained that the Convention shall never adjourn. This must be the secret motive for the proceedings that take place from day to day in this body. A question is taken up—it is debated, and discussion is exhausted upon it—we succeed in getting a vote upon it, which is the deliberate determination of the Convention. We might suppose that it was decided! Not so! There are members of the Convention constantly on the watch to seize the first favorable moment, when the house is composed of a temporary majority in their favor, to move a reconsideration, and thus a rule which was designed to preclude the introduction of any odious principle when the Convention is not full, perverted and produces the mischievous results which it was intended to prevent. In this way, every subject is procrastinated, and we are protracting the period of our session to an extent that is disgusting to the members that are anxious to terminate the labors of this body, and to the people who desire us to come to some conclusion This question of the division of New Orleans has been thoroughly examined. We have had a deliberate vote upon it by a house of seventy out of seventy seven. The delegate from New Orleans (Mr. Soulé) gave notice that he would reconsider that vote. We are prepared to meet the motion to reconsider when it shall come up in its proper order. But in the meanwhile, while the matter is subject to reconsideration, here comes a fresh fire-brand which is to keep us in a state of excitement during the whole of next week. I tell the gentleman that it is impossible for him to succeed in dividing the city by these reconsiderations. He may carry his point, and the subject may be reconsidered when there is scarcely more than a quorum in the house, and he may succeed in districting the city. But we, who are opposed to the measure, and have the clear majority of all the members of the house, to place the question where it has been determined by that majority. The result may be that this subject may alone occupy the attention of the Convention for three months. If no question is to be considered as determined when voted upon, and there is to be a perpetual succession of reconsiderations, I tell the gentlemen that we will follow out their example, and they will find their strong holds are as precarious as ours. This is no spirit to actuate the proceedings of this body. It can lead to no good. We shall make ourselves the laughing stock of the public. Already are the people disgusted with the slow and uncertain character of our deliberations. The press are teeming with squibs. They say we proceed with a crab-like motion—one move on one side and one move on the other. The present question which is introduced under a new form, by the delegate from Ouachita, has

already created a great deal of excitement. It was voted upon once, and the vote was taked upon it the second time. It can have no other effect in being brought up now than to create fresh debate and fresh excitement. Its introduction to-day appeared intended to delude detection. I thought something more was designed than we were given to understand. Instead of being a mere motion to strike out a useless clause—an useless repetition, it has a totally different object. I anticipated that some new attack would be made, and hence I scrutinized this motion, although from the remarks of the gentleman who introduced it, any one would have supposed that it was the most harmless thing in the world. I do really trust that the degrading spectacle will not be presented of two parties in this body watching each other, and springing up, as accident may favor them, a series of petty manœuvres, instead of assuming the broad grounds of meeting every question openly and fairly and submitting to its decision when we are conscious that it has commanded a clear majority of all the members of the Convention.

Is all the vengeance of the Convention to fall upon New Orleans? Is she to be the victim of another act opprobrium? Is she alone to be excepted and left at the mercy of legislative discretion to be gerrymandered? I desire no vain parliamentary phraseology to conceal my sentiments. There is nothing else designed than to cut up the city in small districts, to be gerrymandered at the mere whim and caprice of the legislature. To place the city at the mercy of the country, and we may well anticipate what that mercy will be! Is it not enough that we have been divided in the lower house without attempting to divide us in the senate? Are senatorial districts, to be formed in the city, to be left to the operation of party tactics, so as to favor the ascendency of a political party? I trust that such a design is not seriously entertained, and that the Convention are actuated by better motives. I hope that the present proposition be laid on the table, regardless of all party considerations, if such really have any weight in this body.

It is idle; nay, it is worse than idle and profitless; it is mischievious to excite this discussion. Even those political gentlemen who feel the most interested in this question of apportionment, begin to be worried with this incessant ding-dong on the same everlasting theme. If it is never to be settled; if there is to be agitation, and nothing but agitation; if the city is to be constantly assailed in reference to this question, we will profit by the lessons that are taught us. The gentleman from Ouachita, some days ago, repremanded me for daring to intermeddle in his Ouachita district. He said it was a family quarrel; and yet after the question of the division of the city has been settled, the gentleman comes in and makes a proposition which concentrates all the feelings of hostility towards the city, and he offers it as a harmless amendment—a mere motion to expunge the repetition of a principle found in the section. Why, it exposes the city ever after to the control of the jealous country members. The gentleman will remember that I yielded with due humility, and I appeal to the course taken by the gentleman himself. I ask the gentleman to recollect the lessons that he gave me, should the city of New Orleans come again into consideration. His opinions were that we should not interfere; that it was a family quarrel. The gentleman preaches one doctrine for others, and another doctrine for himself. He makes fish of one and flesh of the other. He claims for himself what he will deny to others. I hope that the gentleman will yield, now that he is reminded of his own lesson. I anticipated that it might possibly have an application, and I yielded implicitly to his behest for the purpose of bringing back the admonition for the exclusive benefit of the gentleman.

Mr. Downs: the gentleman expresses the apprehension that a great discussion will arise upon a subject which he says he considered as being near settled. He says that it is useless and profitless again and again to go over the same ground. If any gentleman of the highest abilities had calculated this morning what would have best answered the purpose of protracting the proceedings of the Convention, in order that they might result in nothing, he could not have conceived any thing better fitted for that purpose than the remarks that fell from the delegate (Mr. Benjamin.) He says that we have thrown a fire-brand

into the Convention, and thrown into commotion a question that has been calmly settled, and which otherwise would not have been susceptible of debate. The most ingenious mind could have devised nothing to disturb the calm as effectually as the speech of the gentleman. Why, sir, if the proceedings of the Convention are to be protracted; if we are to do nothing, it will be to such efforts as those of the gentleman this morning that we will have to attribute that unfortunate result. If the good sense of the Convention is proof against the agitating, I might almost say, personal remarks of the gentleman, it is to that alone that we are to ascribe the want of excitement with which these remarks have been received, and not to the absence of any thing provocative of such excitement in the remarks themselves. The gentleman insinuates motives by which I have never been governed. He seems to think that an attempt has been made to smuggle a proposition through this house, and appeals to a vote given upon the districting of the city, as an evidence that the subject matter is properly beyond the control of the Convention, except through the motion made for the reconsideration of that particular measure. My proposition is a distinct constitutional proposition. It applies to all future apportionment, and prescribes that the city of New Orleans shall be an exception to the general rule, that no parish shall be divided in the formation of a senatorial district. The reason why New Orleans should be the exception is obvious, and it is needless for me to argue it. As for the particular question of districting the city in our present apportionment, that is but a temporary matter, and it is necessary to provide hereafter for other apportionments which shall be made, in which apportionments it is desirable to continue the system of dividing the city into a plurality of senatorial districts. The gentleman speaks of the vote upon the question of districting the city, as decisive of that question. The gentleman should not have forgotten that the vote was taken in a thin house, and that those three members absent, by chance, would have reversed that decision.

Does the gentleman expect by his vociferation to lock up the judgment of the Convention. He tells us that he will agitate and talk for three months, unless he is allowed to have his own way. He intimates that there is something sly; something covert in my manner of introducing my proposition. I repel the insinuation. I thought the ground was covered. I drew up the provision, and I was under the impression, from a simple recollection of it, that it provided that no parish should be divided to form a senatorial district, with the exception of the parish of Orleans. If I could have been capable of any thing underhanded, I should not have counted upon the want of penetration in the honorable member to detect the design. I would ask the gentleman if the principle could have been adopted in its general character had it not escaped the attention of the body of the Convention? The gentleman must be aware that if the city is embraced within the principle, it was through mere accident.

The gentleman appears to think that he has discovered a fine field to declaim upon, as to my interference, as he calls it, in a matter which relates to New Orleans. He congratulates himself upon the presumed inconsistency between the lesson he says I gave him and my present position. He gives me to understand that his apparent frankness was not actually, as I might have supposed, the emanation of a free and open generosity, but was assumed for the purpose of having something in reserve which would impose a check upon me if I should attempt to interfere in what he might consider his peculiar domain. The gentleman need not deceive himself. I was not led astray. There is no comparison between the present case and the one to which he has alluded. The city of New Orleans is directly involved with the balance of the State; they bear with her important political and commercial relations; and it is no interference for the people of the country to take care that their interests and their safety are amply guaranteed. His design to commit me was labor lost; I understood it as well as he did. I would ask the Convention, if this question were properly and fairly determined, what expectation could we entertain of terminating our labors, when we are told by the gentleman that unless he has his own way, unless he shall carry his point, he will wage war for three months! The right

accorded to move reconsiderations may be abused, its exercise may give rise to unnecessary delays; but on the other hand, it is essential to secure the results of mature reflection, and to preclude questions that have been carried accidentally, and without sufficient research, from being maintained as the deliberate conviction of the house. No great harm can accrue where questions for a reconsideration are submitted to the test of a majority of the whole body. But if the gentleman thinks that he will induce the Convention to maintain an accidental vote, when there is a majority in this body to revise it, under the plea that the Convention will be perpetual, that it will never adjourn, and unless he can have his own way, he will speak for three months, he is entirely mistaken.

Suppose in the future action of the legislature it becomes necessary, as it no doubt will, to change the districts, are all the other districts to be subjected to changes, with the exception of the districts of Orleans? If the city districts are not to be left to the discretion of the legislature, then the country districts ought not to be placed within the power of the legislature! The principle is obvious.

The gentleman appears to think that because he has got an accidental vote in favor of his opinion, it must not be disturbed; it must be kept inviolate. The Convention will not be driven from what is just and fair by any extraordinary course the gentleman may think proper to pursue. If it be in contemplation to do nothing; to terminate the sessions of this body without forming a constitution, then the attempt to procrastinate and embarrass its proceedings are perfectly natural. But if the intention be felt to carry out the will of the people in the convocation of this body, then that course will be the last one that will be followed.

The imputation thrown out by the gentleman, that I wish to break up and protract the labors of the Convention, has no foundation to rest upon. That such an idea should be entertained of those that have fought against the call of a Convention, and who are opposed to any measures to popularize our institutions and enhance their democratic tendencies, is plausible, it is very likely. But such a design, applied to me, is very ridiculous! I, who have been so active here and elsewhere, to carry out the measures which public opinion have so loudly demanded. This accusation involves too great a stretch of the imagination to deceive any one; and it cannot have much weight; the only effect that it will have will be to create the belief that those who would apply the charge to me, are more likely themselves to be obnoxious to it; for it is not uncommon to charge upon others what we feel conscious we are guilty of ourselves. That is the most rational inference; and hence I may conclude that the gentleman wishes to divert attention from himself.

I regret much, Mr. President, to have to repeat again what I have so frequently had occasion to say, that when gentlemen find something done that they do not like, instead of arguing the question upon its merits, they turn round and assail me; they say that I am hostile to New Orleans.

I deny this pretended hostility to New Orleans, which is so freely and so frequently attributed to me. It has no foundation. It is true I am favorable to districting the city, for the election of senators. But the assertion of gentlemen that this shows any hostility to New Orleans is disproved by the fact that, as a matter of expediency, her delegation are divided upon it, and it is quite likely that if the people were consulted, they would favor it—at least two of the municipalities are understood to be in its favor. It would be prudent for the country that it took place, because it would prevent a concentration of the political power of the city in the senate. But neither the wishes of the city, nor of the country, have any thing to do with the violent opposition it has encountered. It is to party politics that we are to assign it. They have a great deal to do with it. Calculations have been made to secure all four senators, and that can be accomplished in no other way than by a general ticket, for the municipalities entertain conflicting political opinions. This is no ordinary purpose, and it well accounts for the great zeal which has been exhibited. The senate that will convene immediately after the new constitution will go into effect, will be peculiarly a most important body. It will participate with the executive in filling the most important offices of the State. The attempt will be

made to elect the executive and the legislature of one political party—if that succeeds the whole power will be in the hands of that political party. But it may so happen that the executive may belong to the other political party. If that should happen, it would be considered a most lucky event to secure a majority in the senate of contrary politics, as that would control the appointments, and check-mate the executive.

The interests of New Orleans in this matter are considered to be practically small; they are considered to be of little consequence when compared to the political advantages which would result in securing her four votes in the senate, and to accomplish that in favor of a certain light of politics, there is no other way than that the election should take place by general ticket. Hence it is that this question creates so much excitement, and the gentleman tells us that rather than lose it, he would speak for three months. I have no doubt of it. It will be vigorously disputed, and I have no doubt that the gentleman, if he thought he could carry his point, would not only speak three months for his party, but would speak twelve months.

I did not propose to say one word in favor of dividing the city into senatorial districts. I was willing to leave it to abler hands. I am disposed to favor it for strong reasons. It has happened that during the seven years that I have served in the senate, I have observed the peculiar position of the senator from the city, in relation to so large a constituency, and one whose interests appear so divergent and conflicting. I was the better enabled to appreciate that position from my intimacy with the two distinguished senators that have represented the city during that period. A similarity of professions and other causes led us to form that intimacy, and I have frequently had an opportunity of judging of the excessive embarrassment they have felt in being called upon to advocate measures of an opposite character by the upper and lower portions of the city. The upper portion would desire one thing, and the lower portion another. In place of its being unjust, it is the only way of doing justice. It is reasonable, and must be acceptable to the people. I must conclude that the reason why it is so vehemently opposed, must be from considerations of a political character.

I must confess that I am dissatisfied and disheartened at the prospect of a protracted session. I am ready to do any thing to expedite business, and will join in whatever is most conducive to that result. I trust that the Convention will proceed dispassionately to the accomplishment of its high and important duties. But I must say that we shall never be done, and we shall be kept in a constant state of excitement, if such stimulating appeals as the gentleman has just made be repeated. Why, the gentleman has given us fire enough for one week. I hope that the Convention will take a calmer view, and that, notwithstanding the unfortunate attempt to arouse passion, they will proceed soberly and get through speedily, and that the gentleman, upon cooler reflection, will see the propriety of abstaining from threatening us that if we do not allow him to have his own way, right or wrong, he will procrastinate the proceedings by speaking for three months upon a single theme.

Mr. Benjamin: No one regrets more than I do this discussion. But it is really amusing to hear the gentleman accusing me, and treating me as its cause. It will be recollected that it was understood that the subject of senatorial apportionment had been disposed of, with the exception of the motion of the gentleman (Mr. Soulé) for a reconsideration so far as it affected New Orleans. So far from denying that to be the state of the question, I explicitly admitted it, and therefore I could have had no intention, as might be inferred from the remarks of the gentleman, to mislead the Convention, or, to use an expression of the gentleman, to humbug them. The gentleman attributes to himself great credit in defining motives. He says that he was not deceivdd with the apparent submission with which I received his lesson forbidding me to interfere with his district. That he was aware it was not made in a spirit of candor. I can readily believe this. Men who are less astute than that gentleman, and who have not his superior intelligence, would have arrived at the same conclusion. I do not see how that could well have been avoided, when I expressly stated that I hoped the gentleman would not preach one

doctrine and practice another, and that when New Orleans would be involved I trusted he would remember what he had said. Therefore, his opinions upon his own penetration, as far as that subject is concerned, are gratuitous. I claimed no credit for candor or generosity, but I anticipated the opportunity of applying his observations to me to himself. But, says the gentleman, the cases are not parallel; that he has an intimate acquaintance with New Orleans; that I have no acquaintance, or but a very limited one, with his districtt Or, in other words, it was perfectly legitimate for him to lecture me for interfering with Ouachita, but that I have no right to expect that he will keep his hands off of New Orleans. He thinks that upon the question of the division of New Orleans, that I can be actuated by no other than a party motive. It is beneath the dignity of this body to retort ephitets. If the gentleman supposed that I intended to charge him with such motives, and designed this as a retort upon myself, he is mistaken. I had no such intention. I think that he is too far above any such considerations for me to have dreamt of imputing them to him. If I had done so it would have been untrue. I believe that he would scorn to be actuated by them, and that such an accusation would be improper and unjust. While I am willing to respect his motives, I may well claim from him a similar respect for mine. I trust that I take too enlarged a view of public matters to be influenced by anticipations of the result of the next election for senators. The duty that I owe to those who sent me here is not limited to so trifling a consideration. I trust I entertain higher and nobler purposes, and that I have the good of the country and its permanent welfare more at heart. Moreover, who can say with certainty what will be the aspect of political feeling three years hence. Cannot the gentleman suppose, in that spirit of charity which is due to the motives of all, that I am governed by superior views. Are there no reasons in the identity of New Orleans, and the desire to preserve that identity, which would induce me to assume the position I have, in opposition to her being further split and cut up into fragments. Cannot the gentleman attribute to me views which would better comport with a just sense of my duties. I trust that I do myself more justice. That I look further than any such temporal and ephemeral results. When the question was under consideration to apportion the representation of the city in the house of representatives, it gave rise to a stormy debate. One-fifth of the members of this body were impartial spectators of that contest. Upon them depended the fate of the measure. They came to the conclusion, in accordance with the sound republican principle, that no matter what basis should be adopted, the city should not be deprived of any of the weight to which she was entitled in the popular branch. That no restriction should be imposed upon her there. In consulting the true theory of our government, they found that the restriction could, without any deviation from principle, be placed upon her in the senate, which was designed to be a check upon the lower house. Although they conceded that in conformity with the principles of republican government, the city could not be deprived of her just representation in the house of representatives, they came to the conclusion, that by the greater concentration of power in the city, she had an undue advantage over the country, and that therefore, to equalize their relative weight, the city should be divided into representative districts, and that no one of these districts shall combine a larger representation than the largest country parish. We resisted but feebly the design of dividing the city, because resistance was unavailing, and because there was some justice in the arguments employed to sustain it. The restriction upon the city was then placed in the senate. Instead of allowing her ten senators, to which she was entitled, four were acceded to her, and that throughout all time. We made no objections to this; we submitted at once to that restriction, because it was placed where all checks, in all constitutions, are placed for the conservation of popular institutions—in the senate. The paramount object in constituting that body is, that it should restrain the enthusiasm and phrenzy of the popular will. We were disposed to concede to the claims of the country every thing that it could ask, and to take much less than the city was entitled to from her wealth, her progress, and the development of her resources. With one-third of the population of the

State, we concurred without a murmur in the allotment of but one-eighth of the representation; and while other parishes were possessed of the faculty, by their growth and progress, New Orleans was condemned to remain stationary in her representation to the senate. It was the gentleman (Mr. Downs) that moved that the next apportionment should be made in 1855 in place of 1848, and if he was so dissatisfied with the present apportionment, why did he propose to prolong it? The city has been reduced more than one-half of her representation; where is the propriety of this attempt to impair and weaken her still farther. A direct restriction has been placed upon her, and is not that sufficient.

But oh! says the gentleman, these are different interests. There is an interest above, and an interest below, and the representative may be importuned with conflicting petitions. I will admit this, and yet I defy the gentleman to draw from it any conclusion. Are there no conflicts of local and personal interests in the country? The members from the country parishes are placed in the same situation. During the two short years that I served as a member to the house of representatives, there was a constant stream of these petitions. Some were in favor of a separation of a parish—others were opposed to it. Some were for the removal of the court house, and there were a thousand questions upon which the constituency of the particular parishes differed. If it be deemed essential to insure unanimity that the city be divided, why not divide the country parishes in view of a similar result? But will the division of the city into three senatorial parts force unanimity? Will it produce greater conformity of interests? If it will have that tendency, we would be more sure of the result if we were to divide the city into wards, into blocks, into families; and if we are desirous to attain still greater unanimity---to realize the *beau ideal* which gentlemen seem to entertain, we should apportion to each individual a separate representation. But it is said that there are divergent interests in the city; that there is an upper interest and a lower interest. This is an idle motive upon which to base the proposition to divide the city. If it holds good for the city, it must hold equally good for the country, and the same grounds exist for dividing the country parishes into wards, as exist for a similar course in the city; for there are differences of interests and differences of political sentiment in the country as there are in the city. There is in this as in every thing else, limits beyond which reason will not permit us to go. And all that we ask is, that the city should not be an exception to the general rule.

We have never entertained the design to ask to be exempted from the same constitutional rules that are common to the people of the whole State. We have not excepted nor asked to be excepted from all restrictions. We have submitted to a direct restriction upon our power in the senate. But what we do ask, what we do insist upon, is not to be left to the caprice of the legislature. We ask to be placed beyond the political influences and sectional petty jealousies which may govern that body, so far as fundamental principles be involved, and to have the means of defending ourselves in the ordinary legislation of the State, if our peculiar interests be assailed. I repeat what I have said time after time, that the minority should be protected from the tyranny of the majority. This principle is so vital, that if we must be divided in our representation to the senate as in the house of representatives, let that division be made in the constitution; let it be perpetual, and do not expose us, as is proposed by the delegate from Ouachita (Mr. Downs) to the caprice, to the prejudices, to the political promptings of dominant parties in the legislature. Do not make New Orleans the battle ground for contending factions; for the result will be that if she be districted, and if these districts be left to the control of the legislature, they will constantly be liable to be changed as may best subserve the designs of political parties and temporary majorities. We wish to be placed beyond the power of those jealous and hostile feelings which are unfortunately entertained by the country against the city, and of which we have had so many fatal proofs in the proceedings of this body. Let the city be relieved from that incubus forever! Otherwise we must have excitements---perhaps violence. I do not mean physical violence,

but violence in debate. You have incorporated in the constitution that the legislature shall meet but once in two years; you have limited their sessions to sixty days, and prescribed that apportionments shall be made at stated periods, and that unless the legislature shall make these apportionments in strict conformity with law at the periods fixed upon, it shall not be competent for them to pass laws. The political excitement that may result is fearful to contemplate. The whole session may be consumed in a conflict for political power. The people will revolt—not with sword and musket in hand—at the disorders of the times. They will become dissatisfied with the government. Men that are anxious to preserve the public tranquility will give up all hope—the permanence of our institutions will be gone, and we shall be left completely at the mercy of temporary majorities that may govern from year to year!

I repeat I am not influenced by party calculations of party success, nor did I intend to mislead the Convention. I will tell the gentleman from Ouachita why I considered the question to be settled. I will state the facts, and if I am in error, or mistaken, I can be set right. When the question came up originally, it was on Saturday, and a number of the delegates living in the adjacent parishes had left the city, with the intention of returning on the following Monday. The minority present, judging that they were the temporary majority—they were a large and respectable minority, but still a minority—proceeded to divide the State, and to make such a distribution as suited themselves. The various propositions were adopted, but they were so glaringly partial that the least sensitive stomach revolted at them, and finally at a subsequent day, the entire section was rejected. I was present, but being thoroughly convinced that all opposition was perfectly useless—that reason had lost its sway, and that the distribution contemplated would be made, abhorrent as it was to every principle of justice, I took my hat and left the hall. At half past three o'clock when there was a bare quorum, and nine-tenths of the members were from the north west, and had arranged the political power so as to obtain more than they were entitled to, the proposition to district the city was made and carried by a majority of from four to five to one. These facts were related to me by members who were present. When I left the house it was because I found myself in a hopeless minority, and I was satisfied that nothing done in the house under such circumstances, would avert the deliberate sanction of the Convention.

The honorable delegate from Rapides (Mr. Brent) was the originator of the scheme to divide the senatorial representation of the city, and not my colleague (Mr. Culbertson.)

Mr. Brent: it was Mr. Soulé that made the proposition that the city should be divided.

Mr. Benjamin: I refer to a period anterior to the motion made by Mr. Soulé; by referring to the journals it will be found that the suggestion came from a minority committee; composed of Messrs. Downs and Brent. Here I trace the origin of the scheme, and I am for putting the honor where it fairly belongs. I wish the gentleman to have the honor and credit, and I have no doubt that with some of their constituents it may be so esteemed, of having led the attack against the city, against those lordly nabobs—those avaricious merchants that the gentleman from Ouachita (Mr. Downs) once took occasion to denounce as being so extortionate and unreasonable, because they exacted a commission upon the sale of the produce of the country. Those unjust and griping merchants that will not give their warehouses gratuitously for the storage of that produce—that will not hire clerks to accommodate the business of the country, and who have the outrageous presumption to attack the people of the country through their pockets. It is proper that the two delegates should have all the distinction to which the suggestion entitles them. I know it may be considered a distinction, and I wish it to remain where it properly belongs.

The gentleman from Ouachita (Mr. Downs) repudiates all party influence, and yet has made one of the most artful appeals to party that I ever listened to. While objecting to an assumed course of proceedings on the part of one political party, he has suddenly lopped what might be done by his own political party, and has drawn their attention to the great inducements

held out. He tells you that the first senate under the new constitution will be the most important body in the State. That if the governor be of our political party, it will be essential to secure the majority in the senate, in order to carry out his nominations; and that if the senate be of the contrary political party to the governor, they may check-mate him. All the offices of the State are to be filled. This is one of the strongest appeals to party spirit that the gentleman could have made. But I do not believe he so intended it. I believe he is free from all party biases, and had he foreseen what might be its consequences, he never would have made it. The effect is however the same as if it were made for that purpose, and I am sorry he has made it.

The delegate from Ouachita (Mr. Downs) attributes to me the fault of bringing on this discussion. I deny the charge; it was forced upon me. He introduced his amendment stating that it was to prevent a repetition of the same clause; but when I discovered that it would affect the city, he he then openly announced his purpose to be to, except the parish of Orleans from the provision; that no parish shall be divided in forming a senatorial district, and finally moved a direct amendment to that end. Is it any thing remarkable that I should animadvert upon such a proceeding? What, sir, after all your restrictions, is the city to be left to the mercy of the legislature in her representation? The gentleman makes that motion, and then cooly—no not cooly, but warmly—and violently accuses me of being the author of the violence of the debate.

One word more, and I am done. The gentleman (Mr. Downs) accuses me in terms discourteous, but which I do not presume he designed, of endeavoring to force upon the Convention the conviction that the vote upon districting the city, is a final vote. I distinctly said that the subject was open for reconsideration upon the motion of my colleague (Mr. Soulè), but that I hoped with that reconsideration the matter would be settled; that the conflict should be closed and that the result would then rest in peace. The gentleman (Mr. Downs) speaks of the vote by which the general ticket system was adopted for the city, as a small vote; it stood thirty-two to thirty. The three gentlemen to whom the delegate from Ouachita alludes as being in the city, had paired off; had they been here they would have voted with us.

Of the absentees, a large proportion are with us, and it is my firm conviction that if all the members were present, we would have a clear majority, unless some members may have changed their minds. Whether the appeal of the gentleman from Ouachita (Mr. Downs) to their prejudices or passions, has had any effect, is a matter best known to themselves. But take the last vote that has been had, and adding to it the numbers that are known to be in favor of the proposition, there is a clear majority in its favor; and I hope that when that fact is ascertained the whole subject will be considered as at an end.

Mr. Downs: The first vote in favor of districting the city was thirty-seven to thirty-two.

Mr. Benjamin: That is precisely what I stated. Owing to the absence of several members who did not anticipate that the subject would come up; I do not object to bringing up the question, in order that it may be passed upon by a full house; but I do object to bringing it up in another and a worse form, when it is ascertained that there is a temporary majority in a thin house, to carry it. This is a day when the attendance is usually small. The gentlemen ought to be admonished by the experience of the past. They may carry their scheme now as they did on another Saturday, but they should remember that there is a day of reckoning. They will find that this is bad policy; that it will protract the sessions of the Convention, not by my speaking for three months, as supposed by the delegate from Ouachita, but by the perpetual motions that will be made for reconsiderations. No vote will be final; we shall be perpetually doing and undoing; and it is not to be expected that any member will feel satisfied with any vote which does not embrace a clear majority of all the members. The gentleman from Ouachita should not take all the credit to himself, of being disposed to yield to the will of the majority; other gentlemen are equally as ready to submit when the majority have pronounced; and as for myself, it is too late for me to be taught that no man can expect to carry all his views.

I would be the last one to raise my voice to revise a question after it had been deliberately decided by a clear majority of this body; but the gentleman cannot expect that I can yield my assent to a vote taken under the circumstances that present themselves to-day. He may press the subject if he will, and I have no doubt carry it, but I shall certainly avail myself of the privilege of having a more general expression of the house upon it.

Mr. BEATTY thought that the debate had continued long enough, and would call for the previous question.

Mr. C. M. CONRAD considered that a discussion of two or three hours were not sufficient to examine the merits of this question.

Mr. BRENT replied that the previous question cut off all debate.

Mr. C. M. CONRAD begged the gentleman to bear in mind that the system of forcing a question, and having it decided by a thin house, had not heretofore proved successful. A question taken under similar circumstances upon apportionment, one day, had been reversed the next.

The question was taken on Mr. Downs' motion to strike out, and it was carried in the affirmative—yeas 28; nays 26.

The yeas and nays were then ordered on Mr. Downs' amendment—28 yeas, and 26 nays.

Mr. BENJAMIN offered the following amendment: "The city of New Orleans shall not be divided by any legislature in making the future apportionment of senators."

Mr. PRESCOTT of St. Landry, said he would vote in the affirmative, because he was averse to the legislature having the authority to divide the city. He thought the districting of the city should be made permanently by the Convention, and not be left to the caprice of the legislature.

The yeas and nays were called for—yeas 28; nays 28. The President voting in the negative, the proposition was lost.

Mr. CULBERTSON remarked that he voted in the affirmative, under the expectation that the amendment offered by Mr. Roselius would come before the Convention again, and not because he was favorable to the amendment of Mr. Preston, as stated by the "Bee."

Mr. WADDILL moved the adjournment. He made this motion in order to remove the complaints of some gentlemen who thought there was a disposition to force them to a vote under unfavorable circumstances.

Mr. DOWNS said if there was any one to blame, it was the members who were not in attendance. He did not wish to act discourteously, but certainly the public business ought not to be arrested from day to day, because gentlemen choose to absent themselves.

The question was then taken on the adjournment, and lost by the following vote—14 yeas; 39 nays.

Mr. BENJAMIN regretted to see the course adopted to-day, and gave notice that he would move for the reconsideration of the section on Tuesday next.

Mr. DOWNS said that he considered the apportionment unjust towards his district, and that he voted in its favor to avoid embarrassing the proceedings of the Convention.

Mr. HUMBLE made a similar statement.

The question was then put on the adoption of the whole section, and adopted by 34 yeas, 19 nays. The section reads thus:

SEC. 10. "The State shall be divided into the following senatorial districts; the senators shall be voted for by persons entitled to vote for representatives."

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first senatorial district, with four senators.

The parishes of Plaquemines, St. Bernard and the remainder of the parish of Orleans on the right side of the Mississippi river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Pointe Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of St. Helena and Livingston shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Union, Morehouse, Ouachita and Jackson, shall compose one district, with one senator.

The parishes of Caldwell, Franklin and Catahoula, shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parish of Natchitoches shall compose one district, with one senator.

The parishes of Claiborne and Bossier shall compose one district, with one senator.

The parishes of Sabine, Caddo and De Soto shall compose one district, with one senator.

The parish of St. Martin shall compose one district, with one senator.

The parish of St. Mary shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

The legislature, in any year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of senatorial districts, parish of Orleans excepted. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the senatorial districts; *provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. Downs moved that the Convention take up the additional section offered by him.

Mr. Benjamin moved for the adjournment.

The motion to adjourn was lost, and the Convention took up Mr. Downs' section.

The question pending when this section was last up, was the motion to strike out the second paragraph. Mr. Downs had moved for the division.

Mr. C. M. Conrad: The effect of this portion of the section is to give to parishes that have not the population necessary, a senator, and it is designed to favor the north-west. The principle in the second portion of the paragraph is not equal, for it gives to a parish having one-third less than the divisor, the same privilege as to a parish having one-third over the divisor. I am aware that perfect equality is not attainable, but we should endeavor to reach the standard as near as possible.

Mr. Downs suggested that perhaps the language was not as clear as might be desired, but certainly it was not intended to convey the construction placed upon it by the gentleman.

Mr. C. M. Conrad: I do not think the language at all ambiguous. It seems to me that the clause is designed to place the parish having one-third exceedent over the divisor, upon the same footing as the parish having one-third under the divisor. If I were to propose an amendment, it would be to strike out the words "over" and "under."

Mr. Marigny moved to reject the section, but subsequently withdrew his motion.

Mr. Downs could not comprehend how it was that this section excited so much opposition. We have made a temporary apportionment of the senatorial representation, and have fixed a basis; but we have not determined how the apportionment is hereafter to be made. The section has no other object than to prescribe the mode of effecting that apportionment; unless it be

designed to leave the legislature plenary discretion, full power to do just what ever they please, we must necessarily pass this section. If the phraseology be defective, let it be corrected; or if gentlemen can suggest any thing better, I am ready to receive it. I am solicitous for the principles it contains. But under the plea that the language is not as perfect as gentlemen would desire, do not overlook the principles. If they be discarded, it will be rendering the injustice done to my district, and to some other districts, perpetual; and will interpose an insurmountable barrier for the future. If you do not adopt the first motion, you are without chart or compass. The legislature has unlimited discretion. The only restriction will be, that the number of senators shall not be carried beyond thirty-two; but the legislature may distribute them as it pleases. As for the second clause, it is evident that no apportionment can be made without leaving fractions; it results that we should combine these fractions with the fractions of adjacent parishes, where single districts cannot be formed, so as to have as small fractions remaining as possible. This is all that is proposed.

It should also be borne in mind that, as the districts are not permanent, as they were in the old constitution, the whole senate will have to be renewed at each apportionment; for otherwise, senators would remain that would represent districts which had been changed. That is all that is contemplated in the third clause. As for the last clause, it is indispensably necessary.

Mr. C. M. Conrad: I am opposed to the first clause; as for the second clause, I think it a mere matter of form, upon which it will not be difficult to arrive at a conclusion. We have determined that there shall be thirty-two senatorsd; deucting four for the city, there remains twenty-eight to be distributed in the remaining districts. We have assumed for the basis total population; and we have determined that in making the apportionment that no parish shall be divided. The gentleman from Ouachita (Mr. Downs) thinks it is necessary to establish some rules. What other rules are necessary? I am ready to cede, if the gentleman can show me that there is any necessity for these provisions; but if that necessity cannot be shown, I must insist upon my objections; for I hold that in a constitution whatever is not necessary is pernicious. If we give to the adjoining parishes in the north-west the excess of population in Rapides and Natchitoches, why not, on the same principle, give to the surrounding parishes in this vicinity the excess of population in the city of New Orleans?

Mr. Beatty: It may be that the section contains details which are not indispensable; and I am disposed to think that it would be better to withdraw it and reproduce it in the form of distinct propositions. The first paragraph constitutes a principle for the apportionment in the senate; the second paragraph consecrates an important principle, which is the principle of single districts; the third paragraph relates to vacancies that may occur in the senate as the result of new apportionments. Whether the whole senate should be renewed, or whether that portion only should go out whose terms had expired, is a matter about which there is some contrariety of opinion.

It is evident that those paragraphs are distinct and separate propositions. I think it better to present them separately; and I trust that the gentleman (Mr. Downs) will take that course. As to the fourth paragraph, which is to incapaciate the legislature from passing laws in a certain contingency, I think it a very grave subject; I am fearful unless it be modified it will lead to a great deal of confusion and difficulty. We have already much difficulty in the application of our jurisprudence, without accumulating further embarrassments, by exposing every law to the action of the judiciary, whether it was passed by a legislature that had strictly complied with the regulations requiring an apportionment to be made.

Mr. Downs moved to substitute, in place of the word "divisor," the words "the number entitling a district to a senator." His amendment was adopted.

The question was then taken on the motion to strike out the first part of the section, and it was negatived—12 yeas, 30 nays.

The question then recurred on striking out the second clause of the section.

Mr. Roselius asked for some explanations in reference to this portion of the

section. He could not comprehend its meaning.

Mr. Downs said that the object of this clause was to give a parish, having a less excedent, the greater excedent of a neighboring parish, and thus to reduce the fractions. If the two parishes then contained double the amount, in population, of the divisor, they would be entitled to two senators.

Mr. C. M. Conrad: That is precisely the reason why I ask the rejection of the second portion of this paragraph. Is it not apparent that, by this clause, a parish that has but two-thirds of the divisor, will have as much weight as the parish that contains more than one-third over and above the divisor. This is intended to favor the north-western parishes of the State; and to give them a representation which the Convention did not think them entitled to. Gentlemen may say what they please, but I insist that such will be the result, if, in fact, it be not its main object. I think that the subject should not be pressed at this moment, in a thin house; and gentlemen should recollect that, although they may succeed to-day, they may fail, as they did on a similar occasion, on the following Tuesday.

Mr. Downs presented the following rule:

Be it resolved, That all motions for reconsideration shall be decided without debate.

Mr. C. M. Conrad presented the following:

"That no vote upon any constitutional provision shall be reconsidered, unless the motion for reconsideration shall be made in a house composed of more members than were present when the question was originally adopted."

Whereupon the Convention adjourned.

Saturday, April 12, 1845.

The Convention met pursuant to adjournment, and at the request of the President, the Hon. Mr. Stephens opened the proceedings with prayer.

Mr. Downs moved the adoption of the resolution presented by him yesterday, that no debate should be had upon motions to reconsider.

Mr. C. M. Conrad suggested that his resolution should be taken up as an amendment to the resolution presented by Mr. Downs.

Mr. Downs moved to amend Mr. Conrad's resolution by inserting the words "if there be present a greater number of members voting in favor of the reconsideration, than voted originally in favor of the adoption of the proposition."

Mr. Conrad apprehended that if the house acquiesced in this amendment, it would not effect the purpose he designed —which was to prevent all motions for reconsideration when there were barely more than a quorum of the members present.

Mr. Beatty was opposed to Mr. Conrad's resolution. He could not consent to a measure which would serve particular purposes. It might induce certain members to stay away in order to prevent a reconsideration. Suppose for example, that a question was carried by a majority of thirty-four votes. That would require a house of at least sixty-seven members. Now, if there were a majority of thirty-nine, the absolute majority of the Convention, and there were only fifty members present, the majority could not overcome the opposition of the minority.

Mr. Benjamin offered the following substitute:

Resolved, that no motion for reconsideration shall be entertained unless a greater number of votes shall be given in favor of the motion to reconsider, than were given in favor of the proposition moved to be reconsidered.

Mr. Downs: that is precisely what I proposed.

Mr. Ratliff saw no utility in multiplying the rules, we were only losing our time in doing so; for it was after all, in the power of the majority to do just as they pleased, rules or no rules. And whenever the rule was found to be in their way, they would suspend it, or abolish it. It is perfectly idle to make the attempt when there is scarcely more than a quorum present, at any rate. Thereis no way to effect anything by rules, and we are only losing our time in discussing them.

Mr. Eustis: I will admit that my knowledge and experience in parliamentary rules are not great, and I presume I am not the only one in this house who may make a similar avowal. But I have

not the slightest doubt that if we examine our journals, we shall find that the forty rules we adopted immediately after we had organized, have been the cause of our losing a greater portion of our time than any thing else, by the frequent discussions to which they have given rise. In a body like this, to my humble conception, a single rule would be sufficient; at any rate four or five rules. The President would propose the question, we would vote upon it, and we would get on much better and much faster. And is it borne in mind, that subjected to these forty rules, which only a few among us adequately comprehend, we find ourselves constantly embarrased and stopped at every step? You may say what you please about their merits, but in my opinion for our proceedings, good faith is better than rules. If good faith prevails, they are perfectly useless, and if it does not, they cannot be enforced.

Mr. Porter participated the views of Mr. Eustis upon this subject.

Mr. Downs: the resolution I offer as well as the amendment of the gentleman (Mr. Conrad) in place of exciting debate, will have the contrary effect. It will repress unnecessary debate. Yesterday we were discussing all day a motion for reconsideration. If it be true that our rules really result in a loss of time, we should amend them, in order that they may facilitate our proceedings. If we do not pass this resolution and the amendment which accompanies it, we may rely upon it that the very next question which comes up on the question of reconsideration, will occupy a week in debate. As for the idea that a deliberative body does not stand in need of rules, it is something very novel to me, and I am still more surprised that it should emenate from gentlemen of so much judgment and experience. What, no rules! Why, in what way are we to know that we are proceeding regularly? What would keep us from recurring to all that we had done, and doing it over again? It would be as reasonable to attempt to send a steamboat to Louisville without a rudder, as for us to attempt to proceed without rules.

Mr. Miles Taylor: I concur with the gentleman from Ouachita (Mr. Downs) that we should devise some means to expedite the proceedings of this body, but I differ with him as to the adaptation of his resolution to that purpose. I can conceive that the resolution of Mr. Benjamin may relieve us from a great many useless propositions for reconsideration. But the other resolution in my opinion, will occasion a great deal of difficulty. That gentleman says his object is to prevent discussion. Well, if that be his object, why is not the previous question sufficient. It is always in the power of the majority to arrest the discussion when they think it useless. Does the gentleman propose this as an additional remedy? I would remark to him that this remedy is too violent, for it has the tendency to render powerless even the majority. In point of fact, a section may be passed in either house, and all arguments to prove the necessity for a reconsideration would be cut off under this resolution. If the proposition of Mr. Benjamin be seperated, I will vote for it, but if it is embodied in the resolution of Mr. Downs, I shall feel constrained to vote against both.

The question was taken on Mr. Downs' resolution—yeas 27, nays 16.

The question then recurred on the adoption of Mr. Benjamin's resolution—yeas 36, nays 6.

ORDER OF THE DAY.

The Presidsnt *pro tem* (Mr. Claiborne) informed the Convention that the question pending was Mr. C. M. Conrad's motion to lay indefinitely on the table the first paragraph of the section introduced by Mr. Downs.

Mr. Downs asked for a division of the question.

The President declared that the question was not susceptible of discussion.

Mr. Ratliff moved to strike out the words "on the left bank of the river in descending," and to insert the words "the city" between the words population and and New Orleans. He remarked, that without this correction there was some ambiguity. Mr. Ratliff's amendment was accepted.

Mr. Conrad's motion was then put and lost—yeas 34, nays 10.

Mr. Downs: is it any fault of mine that the attendance is not larger? Had I the power, I would have every member to be in his seat. If gentlemen will stay away, that is no reason why we should fold our arms and do nothing.

Mr. C. M. Conrad: I sincerely regret that those to whom allusion has been made, are not here. It is well known that on Saturdays the attendance is always small. What I object to, is that this accident should be employed to bring on a vote when only a certain expression of opinion can be had. I move that this section be laid on the table until there shall be a more general attendance, in order that the question may be fairly tested.

Mr. Downs: I deny in the most emphatic manner, that I have ever profited by the absence of members on a particular day to pass any provision that I might have favored. This accusation, brought against me by the two gentlemen from Mew Orleans (Messrs. Benjamin and Conrad) is entirely without foundation. No question has to my knowledge been taken up on Saturdays that did not come out of its regular order. Must we devote Saturdays to what those gentlemen call unimportant matters? I know of nothing in this constitution that is not important, and I do not know what the gentlemen mean. As to the present question, it has been before the Convention for some time—it came up yesterday in its order, and was followed up to-day. The gentlemen must be really deficient in good reasons, to travel out of their way to assail me, and to attempt to make me responsible for all the consequences.

I regret that so many members of the Convention are absent, because it interferes with the transaction of our business; but it is preposterous to suppose that because they are absent we should do nothing.

Mr. C. M. Conrad: I accuse no one. I respect the rules, and I conduct myself I believe, courteously to all. But I may nevertheless say that the precipitation with which important subjects are pressed, and that in a house with a bare quorum, induces the conviction that only a certain expression of opinion is to be had. I may be told that this section has been before the Convention for the last eight days, but it was only taken into consideration, and before it had scarcely been discussed, the previous question was called for, and that too when a large proportion of the members were absent.

Mr. Downs: it was not I that called for the previous question—that is a motion that I never make.

Mr. Beatty: for the information of the gentleman I will state that it was I that moved the call for the previous question. I have had frequent occasion to make that motion. I have generally been on the other side of the house when I have made it, and the gentleman nor his friends never complained. This is the first time that I have called for it in favor of views of gentlemen with whom I have almost always differed. As for the absence of members, I must for the credit of those gentlemen say that they are much more punctual in their attendance than those with whom I have been in the habit of acting.

The President: All this is not in order.

Mr. Beatty: I am well aware of it, Mr. President; but it is necessary to reply to a charge that has no foundation.

Mr. Soule proposed the following amendment: "And if the apportionment that shall be made, has over or at least one-third under the number necessary to entitle it to a senator," &c.

Mr. Claiborne: if I understand the question, it is to provide for cases when it will be necessary to form a district with two senators; but why tie up the hands of the legislature? The Convention have decided upon this matter in the manner they have deemed most fit, and it seems to me that in conferring upon the legislature the power of making the future apportionments, they should be vested with a discretion of forming double districts when they should deem it expedient, or when the people should require it. I am aware that if the house decide elsewhere, I must submit. At any rate I do not understand why we should insert words that are superfluous, and which can only give rise to doubt and confusion. Whatever may be the object designed by the second portion of the paragraph, I would move to strike it out and insert the following: "No district shall be formed having a right to more than two senators."

Mr. Downs: the gentleman's motion is out of order inasmuch as the question upon striking out has already been taken.

That being the case, said Mr. Claiborne, I will move to substitute what I have proposed in the place of the three last lines, which I consider useless.

Mr. Soule: there can be no doubt as to

the meaning of the paragraph. The preceding paragraph lays down the principle which the Convention have sanctioned, that whenever it can be done without inconvenience, single districts shall be formed with the right to one senator. But as it may happen that in the apportionment a parish or a collection of parishes may have a fraction over or under the divisor, it is deemed necessary that some provision be had to meet such cases; that is the object of the clause now under consideration. I can well conceive that the principle announced may give rise to opposition, but I cannot well conceive how it can be attacked on the score of its being obscure. Certainly nothing can be more explicit than the text taken as a whole, and as for the three last lines appearing to be superfluous to my colleague (MrClaiborne) I would observe that they do not refer to the two senators to be given to a double district, but specify that such district shall not be established but under conditions prescribed.

Mr. Claiborne: I can well perceive now what is the object of this clause, but I would remark that it is not exact to say that the Convention have established the principle that there should be as many simple districts as possible. They have established some single districts, but that has not been in virtue of any invariable rule. Far from it. As to the section itself, I will not say that the delegate from Ouachita who seems to have succeeded today in all his propositions, has availed himself of the absence of a large number of the members. If there be a fault it is exclusively that of those members themselves. But their absence is nevertheless an incontestible fact, and hence it would seem that it is not an opportune moment to decide a question. If it be however taken, I shall conceive it to be my duty to move a reconsideration.

Mr. Ratliff would observe that the text of the paragraph was so conceived that it might give rise to misapprehension in this, that fractions of remote parishes might be combined together and a senatorial district be thus formed. I am convinced, said Mr. Ratliff, that such was not the intention of the mover.

Mr. Conrad proposed the following amendment. He said he was opposed to the section and would vote against it, but nevertheless, to meet the objections of the delegate from Feliciana, (Mr. Ratliff) which he thought were well founded, he would move this amendment. It was to the following effect: that when contiguous parishes shall have together a sufficient population to entitle them to two senators, double districts may be formed; provided, that neither one nor the other have a population over or under one third of the number necessary to entitle them to a senator.

Mr. Downs moved that Mr. Conrad's amendment be laid on the table.

Mr. Conrad moved an adjournment. The yeas and nays were called for—yeas 7, nays 30.

There being no quorum, Mr. Downs moved for a call of the house—38 members present.

Mr. Downs moved that the names of those that had left the house and broke the quorum, should be entered upon the journals.

Mr. Claiborne thought that the call of the house would exhibit who were present and who were absent.

Mr. Lewis stated that Mr. Hudspeth was confined to his room by indisposition.

Mr. Cade remarked that those who forced the adjournment to-day were the same members that had forced the adjournment at Jackson to New Orleans.

Mr. Soule moved to adjourn for want of a quorum; which motion prevailed.

Monday, April 14, 1845.

The Convention met pursuant to adjournment.

There being no quorum, Mr. Beatty moved that the Convention adjourn for one hour.

Mr. Dunn opposed the motion to adjourn for one hour, and raised a question of order.

It was trifling, said Mr. Dunn, and would not have the effect supposed.

He was overruled by the President, and called for the yeas and nays.

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Cénas, Chambliss, Covillon, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, Prudhomme, Pugh, Read, Scott of Feliciana, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Brumfield, Dunn, Roman and Winder voted in the negative—4 nays.

The Convention re-assembled pursuant to their adjournment, and their proceedings were opened with prayer from the Rev. Mr. WARREN.

ORDER OF THE DAY.

The additional section offered by Mr. Downs, upon apportionment. A substitute had been offered by Mr. C. M. Conrad for a portion of the section, which Mr. Downs moved should be laid indefinitely on the table.

Mr. CONRAD of Orleans, would state for the information of the delegates who were not in their seats on Saturday last, that the substitute did not express his sentiments. He had moved it to meet the views of the delegate from West Feliciana, (Mr. Ratliff.) That gentleman thought that the clause was susceptible of a diffarent construction than the mover himself appeared to give it. The object of the mover is to establish single districts. To that, as a matter of course, I am opposed, unless local or other circumstances should make it imperiously necessary to establish them. In the north west, where there is a vast extent of territory, I conceive there are peculiar reasons militating in favor of the establishment of single districts, and I am willing that they should be established there. But where the population is dense, it is expedient to have double districts, in order to maintain the difference in the constituency between the senate and house of representatives. I think that the legislature should have the discretionary power to make double or single districts, as circumstances may require, and as their judgment may dictate. As for the principle of applying the surplus of one parish to another parish, in the formation of districts, I have no objection to it, provided the surplus is carried to a parish that is adjoining in the same section of country, but I have very serious objections that it be transferred to another and remote section.

Mr. BEATTY inquired of the chair whether the clause was open to amendment, should the amendment of Mr. Conrad be rejected?

The PRESIDENT responded in the affirmative.

Mr. DOWNS preferred the clause as it was.

The yeas and nays being called for on said motion, resulted as follows :

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt voted in the affirmative —31 yeas; and

Messrs. Benjamin, Briant, Claiborne, Conrad of Orleans, Culbertson, Dunn, Hudspeth, Lewis, Mazureau, Pugh, Ratliff, Roman, Sellers, Taylor of Assumption, Wikoff and Winchester voted in the negative—16 nays; consequently said motion was carried.

Mr. Downs said that to respond to the suggestion of several members, he would consent to strike out, in the last paragraph, all between the words "the legislature shall be incompetent," and the words "all acts,"and insert the following:"to pass any laws until the apportionment shall be made in conformity with these rules."

Mr. CLAIBORNE would suggest the propriety of striking out the third paragraph, for the following reasons. It is, without doubt, necessary and expedient that the senators whose districts may undergo change by reason of the new apportionment, should go out; but in reference to those districts that are not changed, for example, the city, which will be a permanent district, that necessity does not exist, and consequently there would be no reason for such a course, and its policy may well be doubted. If you adopt it, then you destroy one of the very few distinctions remaining between the organization of the senate and the organization of the house of representatives—the difference in the duration of the respective offices. I am aware that if the majority of this house are prepared to abandon all the theories of our government, we have no means of preventing it, but for one, I shall resist it to the last. For these reasons I move to strike out the paragraph, and insert the following: "At each apportionment the term of office of the senators whose districts may be changed or reorganized by such apportionment, shall expire so soon as the elections may be held in their dis-

tricts, without reference to the time such senators may have served under any preceding apportionment."

Mr. Downs: I desire to state that I have no desire to shorten the term of service of the senators. I know of no instance, nor do I believe that any exists, where a portion of the old senators may hold on to their seats after a new apportionment has been made. It strikes me that the senate should be entirely renewed. The contrary principle is applicable only to those States where permanence is made the leading feature of the upper branch of the legislature. For example, the senate of the United States, it is a permanent body; its districts—the States—are perpetual. If the rule in our constitution be made to apply only to those districts that may be changed, you make the senators judges in their own cause, and enlist their feelings against making changes in their districts. If you give them the power to determine which of them shall go out of office, you will give rise to a degrading contest for the preservation of power. On the contrary, prescribe to them strict rules, and place it beyond their power to transgress those rules. It is, therefore, not without reflection that I have proposed the particular clause in the section to which objection is now made. It would seem, continued Mr. Downs, from the manner in which gentlemen propose their amendments, that every thing that comes from me is, or must be bad, and admitting that the honorable delegate (Mr. Claiborne) had some grounds for his proposition, I think he might have suggested an amendment to the paragraph instead of proposing its rejection.

Mr. Ratliff: I apprehend that there is more difficulty in this matter than gentlemen may at first suppose. If you renew the senate in full every ten years, it is clear that the term of office being for four years, some senators will not remain longer in office than two years. Is there no means of obviating this inconvenience. It is my opinion, that if we wish to retain the principle that the senate shall be a check upon the lower house, we should apply some principle which would give permanence in the order of the succession of senators. The senators elected two years before the apportionment should continue to hold office until the expiration of their term, I think that this can be done, and it ought to be done. The effectual means of accomplishing it will be to elect the senators by lot, one half to retain their seats for only two years, and the other half for four. This may be done without any inconvenience.

It is evident that if the senate be entirely renewed, there will be a tendency to postpone the apportionment, and if those senators whose districts shall be changed, are only to go out, it will give rise to party spirit and intrigues which may defeat the object proposed; but it is said that the senate will be forced to act. This is an argument in favor of my proposition, for if those degrading contests should arise for the possession of power, they may not fulfill the duty imposed upon them, and the mechine of government will be stopped—no laws will be passed having any binding effect, and every thing connected with the government will be at a stand still. No appropriations can be made, although the greatest emergency may arise—for an invasion or servile insurrection. We shall be reduced to a state of helplessness and confusion.

Mr. Benjamin said he participated in part the opinion of the delegate; but he thought it necessary that the duration in office should be explicitly expressed, and therefore proposed the following amendment: "No apportionment shall have the effect of abridging the term of office of any senator elected before such apportionment shall be made.

Mr. Claiborne said that he was always disposed to sanction whatever came from others that he conceived was better than what he suggested himself. The delegate from Ouachita labors under a mistake when he thinks that my opposition to the clause proposed by him, arises from the causes he has assigned. I have no such feeling, and if I differ from him on most occasions, it is from no such motives. The object which we have in view, seems to me to be to give greater permanence to the senate than to the house of representatives. I think his clause destroys that feature, and hence I have proposed what is more in accordance with my views. When the delegate (Mr. Downs) contends that my proposition would have the effect of deterring certain senators from making

changes in certain districts, he forgets that the effect of the clause by a parity of reasoning would be still worse, as it would deter all the members of the senate from making any apportionment at all. His objection applies with greater force to his own position. If the delegate from West Feliciana (Mr. Ratliff) can satisfy me that his proposition is proper, I shall give it my support.

Mr. Brent thought the discussion had proceeded sufficiently far, and he would therefore move the previous question. The yeas and nays were called for on his motion and it was lost—18 yeas and 30 nays.

Messrs. Brazeale, Brent, Carriere, Chambliss, Downs, Hudspeth, Humble, Hynson, Lewis, McCallop, Porter, Prescott of Avoyelles, Prescott of St. Landry, Read, Scott of Feliciana, Scott of Madison, Soulé and Waddill voted in the affirmative—18 yeas; and

Messrs. Beatty, Benjamin, Bourg, Briant, Cade, Claiborne, Conrad of Orleans, Covillion, Culbertson, Dunn, Eustis, Garcia, Garrett, Ledoux, Mayo, Mazureau, O'Bryan, Peets, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Sellers, Splane, Stephens, Taylor of Assumption, Wederstrandt, Wikoff and Winder voted in the negative,—30 nays.

Mr. Downs proposed to add to Mr. Benjamin's amendment the following: Except those whose districts shall be changed. The question was taken on Mr. Downs' amendment and it was lost. The question then recurred on the adoption of Mr. Benjamin's amendment, and the yeas and nays were called for—yeas 36, nays 14.

Mr. Benjamin then moved for the adoption of the substitute, and the yeas and nays baing called for,

Messrs. Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cade, Claiborne, Conrad of Orleans, Covillion, Culbertson, Dunn, Eustis, Garcia, Garrett, Hudspeth, Ledoux, Lewis, McCallop, Mayo, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Wikoff and Winder voted in the affirmative—36 yeas; and

Messrs. Brazeale, Brent, Carriere, Chambliss, Downs, Humble, Hynson, Marigny, O'Bryan, Porter, Read, Soulé, Waddill and Wederstrandt voted in the negative—14 nays.

Mr. Ratliff thought that by declaring that all laws should be null and void unless the apportionment should be made in strict conformity with the rules that were prescribed, would give rise to an infinity of questions upon the constitutionality of the laws that might be passed, and would be transferring from the legislature the power of judging of their own organization and committing it to the judiciary. This would have very unfortunate resuls, and would produce a great deal of confusion and uncertainty.

Mr. Downs withdrew the first portion of the paragraph.

Mr. Eustis: This is not yet enough. The paragraph says that the legislature shall not be *competent* to pass any law until an apportionment shall be made in strict conformity with the rule. Now suppose that the legislature, nevertheless, should pass laws. What would be the consequence? What would be the penalty? That the laws so passed would be null and void! It is then evident that you attach to each law the question of constitutionality. Let us consult the lessons of experience, which should be a guide to us, and we shall find that the slightest innovation of this kind will be the source of great confusion and doubt, and will give us cause hereafter for much regret. Why is it that there is no law which has eminated from congress, the constitutionality of which is doubtful? I will tell you why. It is because the federal constitution contains nothing but principles. Let us refer to a contrary example. The supreme court of the State of Arkansas has declared one hundred and thirty-six laws of that State to be unconstitutional—and why? Because the constitution of Arkansas is mixed up with heterogenious matters, and is filled with simple legislation. Let us reflect seriously. In attaching the question of incompetency to the legislature we give to the judiciary the power to decide upon the organization of that body, and we may be well assured that the power will be exercised on every occason. Every law that will be passed after a new apportionment shall be made, will be ex-

posed to the question of constitutionality. They will say that your legislature is not organized in strict conformity with the apportionment as prescribed by the constitution. The result will be a great deal of doubt and confusion, and perpetual litigation. But it is not only the question of apportionment which will be exposed to to the scrutiny of the judiciary; there are other questions having reference to the same subject which may also be involved. For example it is prescribed that contiguous parishes shall only be formed into senatorial districts. This word contiguous! It happens that there are parishes which are contiguous only at one point, and if a controversy should arise the judiciary would have to determine the question. Are we ready to authorize a principle of encroachment of one of the departments of the government upon another? Why establish three co-ordinate departments of the government if each one is not to revolve in its appropriate sphere, in the orbit which you have signed it in your constitution? The moment that your common-practised lawyer can raise the question of constitutionality of your laws upon so prolific a source of confusion and doubt, your courts of justice will resound with nothing else. It would be better to submit to a defective apportionment than to leave the judiciary so extensive a power. Hence it is that I hope that the balance of the clause will be struck out.

Mr. Downs: I am willing to yield in reference to the first clause of the paragraph, because, upon reflection, I am persuaded that I went too far in providing measures that would assure the execution, and the effect of future apportionments. But I cannot consent to leave the legislature free to make an apportionment or not, as it pleases. Free from all obligation, and free from all responsibility except the moral responsibility which has heretofore proved totally ineffectual.

Mr. Eustis had no objections to any coercive measure to inforce the making of future apportionments, provided the constitutionality of the laws themselves were not put at issue by declaring the incompetency of the legislature.

Mr. C. M. Conrad thought that the obligation of an oath administered to the members of the legislature, together with the desire to enhance the political power of the sections of country which they represented, would be sufficient to insure the making of the apportionments. The session of the legislature was limited to sixty days, and we have been more than one month in making an apportionment with which no one is satisfied. How much would it require for a legislature, composed of two bodies, and whose combined action would have to be sanctioned by the executive, to perform a similar task? When we take into consideration the shortness of the period, the spirit of party, local feelings and personal aspirations, it will be seen that the period allotted may interpose an insuperable obstacle. This attempt to to constrain the action of the legislature reminds one of the practice at Rome for the election of a new pope. The cardinals are shut up in their cells until an election be made. In a similar spirit our legislators are to be shut up and to remain without any legislative capacity to make laws, until they have first made the apportionment.

Mr. Ratliff renewed the proposition of Mr. M. Taylor.

Mr. M. Taylor moved to strike out all between the words "after the census" and "this rule."

Mr. Downs said that if this portion of the clause was struck out it would be left at the discretion of the legislature, and thirty years experience taught us that that was bad policy.

Mr. M. Taylor participated partly in the views of Mr. Downs, and thought it would suffice to apply the clause to those years in which an apportionment should be made.

Mr. Porter said as the Convention had fixed a basis, there was nothing to impede the action of the legislature.

Mr. Ratliff expressed a regret that he was not present when a similar clause was passed for the lower house. We have here the opportunity of judging of the obstacles which embarrass the making of an apportionment. What will it be with a house composed of ninety-eight members and a senate composed of thirty-two, which bodies will have to determine the very same question that we have been discussing for the last month? The absence of seventeen of the senators will suffice to suspend the

action of the legislature, and for the fault of the latter you punish all the citizens of the State, stop the laws, and arrest all necessary appropriations. Is that just? No one among us will pretend to say that it is. Punish the legislature in depriving them of their per diem; but do not punish the people—do not stop the wheels of government in order to compel the legislature to do its duty.

Mr. Benjamin said that he saw he was wrong in having voted for a similar clause in the apportionment for the house of representatives. The argument of the delegate from Feliciana (Mr. Ratliff) had convinced him.

Mr. Beatty said that he would vote for this clause because he was convinced that the other clause was wise and salutary. The question was taken on Mr. Ratliff's proposition, and it was rejected.

Messrs. Benjamin, Briant, Burton, Cade, Cénas, Claiborne, Conrad of Orleans, Eustis, Hudspeth, Ledoux, Lewis, Marigny, Mayo, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Sellers, Soulé and Splane voted in the affirmative—22 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Carriere, Chambliss, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, McCallop, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Read, Roselius, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Waddill, Wedsretrandt, Wikoff and Winder voted in the negative—28 nays; consequently the motion was lost.

Mr. Taylor of Assumption offered the following substitute:

"In all future apportionments of the senate, the State shall be divided into sixteen districts. The city of New Orleans shall be divided so as to form two districts. The population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number fourteen, and the quotient produced by this division shall be the representative number entitling a senatorial district to two senators. Single or contiguous parishes shall be formed into districts, in such manner as to have a population the nearest possible to the representative number. After the census has been taken, and the general assembly convened, the legislature shall not pass any law until an apportionment is made."

Mr. Taylor of Assumption, said that his object in presenting the foregoing substitute, was to test the sense of the house as to uniformity in the system of organization for the senate. It follows from the section to which I have offered this as a substitute, that the legislature will establish single districts, and my design is to ascertain whether the sense of the house is not in favor of double districts. The Convention will perceive that, by adopting my proposition, they will simplify the process of apportionment, and make it more equal. For example, take the districts of Iberville and West Baton Rouge on one side, and the district of Point Coupée on the other; it is clear that there is here inequality. Inequality will exist as the result of single districts; whereas, if you adopt the principles of double districts there will be greater uniformity and less equality. Accordingly, by uniting the parishes of Avoyelles and Rapides in a double district, there will be little or no fraction left, in allowing them two senators. At present, Rapides with an excedent of population, and Avoyelles with a deficiency of population, are assigned respectively, one senator. There is one striking inequality, and similar inequalities will be found in most cases where single districts have been established. A question of order here arose.

Mr. Ratliff contended that the proposition of Mr. Taylor was not in order.

The President decided that it was in order.

Mr. Benjamin said he would vote in favor of this proposition, because he prefered large districts. It was true that, if it prevailed he would be under the necessity of consenting to the division of the city into two districts; and although he was invincibly opposed to such a division, as he was to all exceptionable measures towards the city, as if she were the paria of the State; he would vote for this proposition because at least it was general in its character.

Mr. Caiborne would vote against the proposition, because he considered the division of the city as an injustice, and because that division would stimulate an opposition among races which he wished to be buried in oblivion. If the city were to

be divided it were better it were divided according to its municipal regulations.

On the motion of Mr. Taylor of Assumption, for the adoption of the above substitute, the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Benjamin, Bourg, Briant, Cénas, Conrad of Orleans, Eustis, Hudspeth, Legendre, Lewis, Mazureau, Prescott of St. Landry, Pugh, Roman, Taylor of Assumption, Winchester and Winder voted in the affirmative—17 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Claiborne, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescottof Avoyelles, Preston, Prudhomme, Ratliff, Read, Roselius, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff voted in the negative—36 nays; consequently the motion was lost.

Mr. Mayo moved to amend by adding after the word "legislature" in the twenty-eighth line, the words "to pass any laws after the first forty days of the session;" which motion was lost.

Mr. Lewis moved for the previous question.

The President put the question, "shall the main question be now put;" which motion prevailed.

Mr. Conrad of New Orleans, moved to amend by striking out from the third paragraph the words "or to exceed." The yeas and nays being called for, resulted as follows, viz:

Messrs. Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Eustis, Hudspeth, Legendre, Mazureau, Pugh, Ratliff, Roman, Roselius, Taylor of Assumption, Winchester and Winder voted in the affirmative—17 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff voted in the negative—34 nays; consequently the motion was lost.

Mr. Benjamin moved to strike out from the sixteenth line the word "may," and insert in lieu thereof the word "shall." The yeas and nays being called for, resulted as follows:

Messrs. Beatty, Benjamin, Bourg, Briant, Cènas, Claiborne, Conrad of Orleans, Hudspeth, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, Taylor of Assumption, Winchester and Winder voted in the affirmative—17 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff voted in the negative—34 nays; consequently the motion was lost.

Mr. Brent gave notice that he would, on to-morrow, move a reconsideration of the vote given on Mr. Benjamin's amendment, to insert one-fifth instead of one-third.

Mr. Downs moved for the adoption of the section as amended, viz:

"In all future apportionments of the senate the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division shall be the population entitling a parish to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if, in the apportionment to be made, a parish or district be found to be deficient of or to exceed one-fifth the ratio, then a district may be formed having not more than two senators, but not otherwise. No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment, and after the census has been taken and the general assembly convened, the legislature shall not pass any laws until the apportionment be made.

The yeas and nays being called for on the adoption of the above section as amended, resulted as follows:

Messrs. Beatty, Bourg, Brazeale, Brent,

Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt, Wikoff and Winchester voted in the affirmative—39 yeas; and

Messrs. Benjamin, Briant, Cénas, Claiborne, Conrad of Orleans, Eustis, Legendre, Mazureau, Roman, Roselius, Taylor of Assumption and Winder voted in the negative—12 nays; consequently the motion was carried, and the section as amended was adopted.

On motion the Convention adjourned till five o'clock this evening.

Monday Evening, April 14, 1845.

The Convention met pursuant to adjournment.

At ten minutes after 5 o'clock. Mr. Brent moved for a call of the house—36 members present.

After a quarter of an hour had elapsed, Mr. Brent moved for a call of the house—39 members present.

On motion of Mr. Soule, the Convention then adjourned for the want of a quorum, till to-morrow at 10 o'clock, a. m.

Tuesday, April 15, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

Mr. Brent moved that the names of absent members at the call of the roll be published in the public papers.

Mr. Ratliff said that these publications would swell the volume of journals to a great extent; they were already very voluminous; yesterday the journals were of twenty-one pages of foolscap. Besides he doubted whether any good would result from this publication of the names of absentees. It would not lose those gentlemen who fail to attend a single vote, were they candidates before the people. In his own instance as a member of the house of representatives he had been most punctual and assiduous in his attendance, and it happened that his colleagues were not as punctual; and yet he never could discern that it made any difference, except he was sure to get the blame if any thing went wrong.

Mr. Brent differed from the delegate from West Feliciana in opinion. He thought it at least proper and expedient that the people should be instructed into the causes which retard this Convention in the accomplishment of the duty assigned it. If it did not procure a more punctual attendance, it would at least place the responsibility where it ought to be.

The question was taken and decided in the affirmative—yeas 39, nays 7.

Mr. Brent moved to reconsider that portion of the section upon apportionment, which required that a parish having one-third over or under the divisor should be entitled to a senator. The paragraph had been amended by Mr. Benjamin so as to require one-fourth.

Mr. Lewis said that the only motion in order, was to reconsider the whole section.

Mr. Conrad of Orleans, expressed opposition to the whole section.

Mr. Ratliff inquired what would be the effect of this motion to reconsider. Would the house have to go over the same ground?

Mr. Brent: I call the gentleman to order. The motion to reconsider is not discussable.

The question was taken on the motion to reconsider and it was lost.

The Convention then took up the third section of the second article.

Mr. Mayo moved to lay said article on the table until the Convention reached the general provisions.

Mr. Lewis moved to take it up and fill the blank with 1845.

Mr. Downs thought it rather premature to act upon it now. It would be better to lay it over until the Convention had reached the general provisions, where it would more appropriately come up. It was laid over.

Mr. Read moved that the Convention take up sections eleven, twelve and thirteen of the report of the legislative committee, which motion prevailed.

Sec. 11. At the session of the general assembly after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second

year, of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually.

Mr. Conrad of Orleans, proposed an amendment to the following effect:

That in case a district should elect two or more senators, the seats of those senators shall be vacated at the expiration of two or four years, and lots shall be drawn for that purpose.

The amendment was concurred in, and the section as amended was passed.

Sec. 12. "No person shall be a senator who, at the time of his election, has not been a citizen of the United States ten years, and who hath not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and one year in the district in which he may be chosen."

Mr. Read offered the following substitute:

"That every qualified voter shall be eligible to the senate."

Mr. Conrad of Orleans, moved to lay said substitute on the table, and called for the yeas and nays—29 yeas and 20 nays.

Mr. Claiborne called for the adoption of the section.

Mr. Brent moved to insert "twenty-five" in place of "twenty-seven."

And Mr. Conrad moved "thirty" in place of "twenty-seven."

But subsequently they withdrew their propositions.

The section was then adopted.

Sec. 13. "The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be a biennial election for senators to fill the places of those whose time of service may have expired."

On motion of Mr. Read, the house then took up the following section of article 2d.

Sec. 23. "No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly, or to any office of profit or trust under this State."

M. Mayo would simply remark that, upon reference to the constitutions of other States, it would be seen that in eighteen States there was no such restriction; in nine States the clergymen were excluded from some offices; and there were but three States, including Louisiana, in which there was a total disqualification imposed upon them. He would move to lay the section indefinitely on the table.

The question was then taken on Mr. Mayo's motion, and it was lost—yeas 22, nays 30.

Mr. Mayo then moved to amend the section.

Mr. Preston would simply remark that the restriction in the old constitution was certainly going too far. According to it, there could be no chaplain under the authority of the State in the army. He trusted that, at least, the present section would be modified.

Mr. Culbertson would vote for the first part of the section, but not for the latter. He moved "or to any office of trust or profit under the authority of the State" be stricken out.

Mr. Lewis did not wish to argue the subject again. By a clause already adopted, clergymen were excluded from the office of governor; and now by the present section they are not only to be excluded from the legislature, but from all offices of trust and profit under the State. He considered this exclusion to be odious; although personally he was as little inclined to take a clergyman from his secular duties, and put him into a political office, as any member on this floor; still, there should be no disability in reference to clergymen, nor any restraint upon the will of the people, if they should think proper to elevate them to those offices.

The amendment was carried; and the section as amended was then adopted.

M. Taylor of Assumption, moved the additional section, offered by him two months ago, defining the acquisition of and continuance of residence necessary to qualify an elector.

Mr. Porter would suggest a longer period of time. He thought the time specified in the section was too short; this was a new country, and it was desirable to encourage population.

Mr. Taylor of Assumption had no objection to any amendment proposed by the house. The provision was necessary to ascertain who were citizens and who were not citizens; otherwise the commissioners of election would be without an uniform

rule, and would differ in their constructions of the fulfilment of the constitutional requisition upon residence. I am willing that the section should be so amended as to refer to the acquisition of residence; after which it should have no effect.

Mr. Lewis would suggest that it be so worded as to say that it should *interrupt* the acquisition of residence.

Mr. Ratliff: I would move that the word "exclusively" be struck out. It might happen that the house might not be exclusively occupied by one family.

The section was modified so as to declare that an absence of sixty days should interrupt the acquisition of residence.

Mr. Culbertson was opposed to so short a period as sixty days; it was not time enough. As I understand the section it means this, that after the person has exhibited his intention to become a citizen of Louisiana, and has resided among us for twenty-two months, if he were compelled to absent himself, and be unable to return before the expiration of sixty days, he would be compelled to recommence, *de novo*, his residence to acquire citizenship; and would have to remain two years consecutively, without reference to his former residence, which would count for nothing. That appears to me to be too hard. I would not object to his losing the benefit of the period for which he might be absent; but after a man may have resided in Louisiana for two summers, to expunge that residence because he has not completed the term of two years, is what I cannot well consent to. I would rather say six months; at any rate four months. I can see no harm that would result from extending the time. We have among us a very valuable class of the community who have no wives nor children, and who are not housekeepers, and who absent themselves during the summer, and go to the north or to Europe. They could not very well return in sixty days, more especially as an epedemic might be prevailing.

Mr. Mayo would state the reasons why he could not give his sanction to the section. It appeared to him to be an attempt to change the law of domicil. The civil code determined this matter in an explicit and positive manner, and its provisions can be as well understood by the commissioners of election, as this section. It would have no other effect than to confuse those officers, and unsettle the uniformity of their decisions. At any rate, he conceived it did not properly come up in this place, and if it were to be inserted any where, it ought to be inserted in the general provisions. The delegate from Attakapas (Mr. Voorhies) had introduced a similar provision, which had been laid upon the table until the general provisions came up, both that provision and the present one might be discussed in connection.

Mr. Miles Taylor would not discuss the merits of the proposition. But would simply remark that the delegate from Catahoula (Mr. Mayo) labored under a serious misapprehension as to there being any conflict between the section and the dispositions of the civil code on the subject of domicil. The dispositions of the code as to domicil, referred to a civil right, and were intended to define what particular judicial process was applicable to particular cases The present section referred to a different matter. It defined a political right, which related to the qualification of electors. What connection could there be between a matter affecting the elective franchise and the civil right of domicil, I cannot, said Mr. Taylor, discover. As to this particular portion of the constitution not being the proper place for the section, I differ from the gentleman. I think there is a necessary connection between it and the dispositions preceding it. If the house are disposed to adopt it, it is proper they should do so now, and if they are disposed to reject it, they might as well reject it now as at any other time.

The question was taken on Mr. Mayo's motion to lay on the table, and it was lost.

The question recurring on Mr. Culbertson's motion to extend the period to four months,

Mr. Culbertson said he had conversed with gentlemen who were better judges than he considered himself to be, and at their suggestion he was willing to modify his motion, and to make the period ninety days.

Mr. Conrad of New Orleans, renewed the proposition for four months. He thought the provision unnecessarily rigorous; if the absence were not in the com-

putation, he would have no objection. But he had serious objections to so short a period as ninety days.

The question was taken on Mr. C. M. Conrad's motion, and it was lost; yeas 23, nays 24.

Mr. Lewis then proposed ninety days. His motion prevailed, and the question being on the final adoption of the section,

Mr. Preston said he had had great hopes that the amendment would have been rejected. It appeared to him that there were sufficient restrictions upon the acquisition of citizenship already in Louisiana; we had certainly guarded our doors with a great many precautions. This additional restriction was calculated to do a great deal of injustice. He presumed such was not the design of the Convention; and had they anticipated that injustice would have resulted in a single instance, they would not have done it. This provision was particularly objectionable, because it would operate harshly upon a large and valued class of the community. It would disqualify the carpenters and engineers that were employed upon plantations—they were not house-keepers, but lived with their employers—they would therefore fall under the restriction. There were other mechanics too that lived with their employers, and they would share the same fate. In the hot season, the mechanic might think fit to recreate himself by going from Concordia, from Carroll, to the uplands of Mississippi. Was he to be deprived of his right to become a citizen by a tempory sojourn of sixty or ninety days out of the State? There were schoolmasters too in Ouachita, in Natchitoches and elsewhere, that in the usual vacation would wish to visit the springs of Arkansas to recruit their health from the effect of their sedentary employment. Should they be debarred that privilege under the penalty of loosing the benefit of their residence? It seemed to him, to make use of a vulgar expression, to be taking a snap judgment upon these individuals. There was not a State in the Union where similar restrictions could be found upon the acquisition of residence. There were hundreds of persons who for six or eight months of the year, toiled and struggled for the benefit of the State, and for the development of its resources, who had no families, and who lived in the numerous private boarding houses conducted by widows in this city, because they found it more convenient; who, after the hurly-burly of the business season was over, took a trip to the north, to Europe, to Beloxi, to Pass Christian, or to Pascagoula. Are we not about to perpetrate an act of injustice to limit the absence of these persons to sixty or ninety days? There were laborers too that toiled in their useful occupations, ten months in the year, that were employed in gardening, in mechanical establishments, in our foundries--and I trust that these useful establishments will continue to increase--who get moderate board at fifteen dollars per month, and who may desire to suspend their labors—they may ascend the Mississippi—they may go to Texas—to Arkansas, to any place they may choose, but is it right to say that a penalty of civil disability shall be pronounced against them? I would ask gentlemen, if it is right to attach such a penalty, if an overseer, who is unwell, should go over from the parishes of Calcasieu and Sabine into Texas, for the recovery of his health? For God sake, let us be done with these restrictions. They emenate only from an unworthy spirit of jealousy, that should find no place in our bosoms. They can do no good. Let us leave the matter of residence to be fixed and determined by the legislature, to whom it properly belongs. I trust the section will be rejected.

Mr. Mayo would suggest to the delegate from Jefferson (Mr. Preston) that the motion to reject was an equivalent question. If it failed, the section would be adopted.

Mr. Preston: I will then move to lay the section indefinitely on the table.

Mr. Beatty would offer a substitute, that the legislature be vested with the power of passing laws defining the mode of acquiring the residence required by the constitution. It miget be inferred that the legislature had the power without a specific clause to that effect; but in order to prevent any doubt it was better perhaps, to provide such a clause.

Mr. Humble renewed the motion to lay the section indefinitely on the table.

The yeas and nays were called for; yeas 20, nays 34.

Mr. Claiborne said he had voted against laying on the table, not because he

was disposed to sanction ninety days, but with the view, if possible, of amending the section so as to extend the period to four months. He thought ninety days too short. On the one hand, he did not wish to restrict the right of suffrage, and on the other hand, he did not wish to encourage absenteeism, which was an evil that had become too prevalent. The State wanted all her good citizens. He wished to repress this tendency to absenteeism, but at the same time, he did not wish to impose a rigorous provision. It so happened that he had been called to the chair when the question was taken upon the amendment substituting ninety days, and he did not vote upon the question. He would have voted against the amendment, and that would have made a tie vote. He would therefore request some member who had voted in the majority, to move the reconsideration, in order that he might propose to substitute four months for ninety days.

Mr. C. M. Conrad hoped that the motion for reconsideration would be made, and that the further consideration of the subject would be postponed until to-morrow.

Mr. Beatty offered the following substitute:

That the legislature shall have the power to pass laws, defining how citizenship may be acquired and lost.

Mr. M. Taylor would not argue the question. He would remark merely, that to his judgment the constitution ought to define every thing essential to the exercise of suffrage: if the legislature were to be entrusted with a discretionary power, that power might be exercised materially to affect the right of suffrage and to abridge it.

Mr. Beatty argued, that if there was a constitutional provision upon this matter, it might operate badly, and if that was the result, there would be no immediate means available to change that provision. But if it were left with the legislature they would provide such remedies against fraud and for the protection of the ballot box as experience might suggest, and if there was any defect in the legislation that might be applied, they could change that legislation. Moreover, a constitutional provision upon the subject might be interpreted differently by different officers, and lead to a great deal of confusion and difficulty.

Mr. Benjamin was of opinion that the section involved a qustion of domicil, that ought not to be decided in the constitution. It was a question peculiarly complicated—there were a thousand circumstances connected with it, that would have more or less weight in its proper decision. The fact, whether a man had a family or not, was material in determining whether he had his domicil or not in the State. A man might have all his interests at the north—have his family residing there—and be, as is familiarly termed, "a bird of passage;" if the question were asked, no one would determine him to be a citizen of Louisiana. Another man, who was unmarried, and had become identified by residence with our southern institutions, would be considered a citizen of Louisiana. The point at issue would turn upon some fact, some particular circumstance, that would induce a judge or a jury to determine whether a man was a citizen of Louisiana or not. This question of domicil was considered to be a very intricate matter by law writers. The C. Code, the Napoleon Code, and the Conflict of Laws, all testified to the same fact. Many circumstances had to be taken into view before determining it. It was impossible to make a constitution defining every particular shade of difference. It belonged to the judiciary to determine these questions. He was in favor of the substitute offered by the delegate from Lafourche, (Mr. Beatty.) He thought the legislature ought to have charge of this matter, and that they ought to be trusted. The constitution prescribes the general principle that there shall be a residence of two years—leave it to the legislature to carry out the details. If you can't trust your legislature, (continued Mr. Benjamin) whom can you trust? The legislature were more fit to have the control. If they make any omissions, or any bad consequences should flow from what they may do, it will be in their power to remedy their own acts. The legislature were the proper body—let us delegate to them the authority. He would say no more, as this subject had already been spun out to a great length, but would only remark, that if we continued to take up our time with ordinary questions of legislation, there would be no end to the labors of this body.

Mr. M. Taylor regretted to differ with the delegate that had just spoken, upon a question of so much importance. I confess (said Mr. T.) that I cannot agree with him in the slightest respect. Every consideration that appears to operate upon him, is an additional reason with me to favor the adoption of the section I think that the course suggested by the gentleman is the most objectionable that the house could take: that the Convention by a solemn vote should expressly delegate to the legislature the power of determining what constitutes political residence. The gentleman says that this is an ordinary matter of legislation. I beg leave to differ from him. In my opinion it does not properly appertain to the legislature. He says that the question of domicil is the most difficult question to be resolved in the whole range of our jurisprudence. Admitting such to be the fact, I deny that the question of domicil, as it is legally understood, has any bearing upon the present subject. Domicil, as treated of in our statute books, has reference to the particular civil process to which members of the community shall be subjected—it involves a question of jurisdiction, and defines what particular facts shall invest a man with the ordinary rights and the ordinary burthens of citizenship. There is a material distinction between the rights conferred by civil residence and those conferred by political residence. By civil residence one is entitled to hold property, to dispose of the same by sale or by other contract, and to transmit it by wil or by operation of law; it determines who are members of the civil community, amenable to the courts, subject to the laws, and as subject to these laws, before what peculiar courts they are to be sued, or to bring their actions—at what particular places they are to perform certain contracts. Ordinary legislation goes no further than that and if in some instances there are some statutary provisions affecting political rights, I hold it is a departure from political principle. My views are that any system that permits the legislature to exercise any influence over suffrage is the most vicious that we could adopt. I am decidedly averse that the rights of those claiming the elective franchise should be exposed to the changes of legislation—that the legislature should have the power to extend or limit the right of suffrage, or to interfere with it in any manner. I consider that such a power, if conferred either expressly or inferentially, would be most pernicious in its consequences; and that it would convert the legislature into an arena in which the right of suffrage would be subjected to the untoward control of political parties. If one particular provision operated to exclude a certain class of persons from voting whose votes might be secured to favor a certain expression of political opinion, the party that expected to be benefitted would labor to obtain the ascendancy in order to subserve that design. The evils that would follow from legislative control, should be guarded against by placing the right of suffrage beyond ordinary legislation. Had the power been conferred by the old constitution, the highest considerations of sound policy would have dictated the necessity of withdrawing that power.

The gentleman (M. Benjamin) has said that the section involves a great many propositions. I discover but one, and that is that the absence for a particular period shall interrupt residence. This is a distinct proposition, and unless the gentleman takes the exceptions which are the necessary consequences of the principle itself, there is no multiplicity of propositions. It results as a matter of course, that the question of absence involves some essential facts, such as whether the individual has been engaged in business, whether the premises occupied by him are still retained, whether he leaves behind him his family, or a member of his family, or a servant in possession of them. In any case, there are but two propositions—first, as to the fact of absence; and secondly, whether that absence is accompanied by some facts that show it to be but temporary, and that the residence in the State is constructively retained, to be actually and personally continued. I cannot perceive in this any thing vague or uncertain. The section succeeds the requisition that two years' residence shall be indispensable to acquire citizenship, and explains how this residence of two years is to be acquired. It is an attempt to make clear and evident, what was before doubtful. Without it the question would well arise, what constituted residence? For a civil residence, the acquisition of domicil, a constructive residence is only necessary.

But for a political residence, the residence which confers political rights, an actual residence is required. The distinction between these two kinds of residence are of a great deal of consequence. The legislature have nothing to do, and ought to have nothing to do, with defining political residence. That properly belongs to the constitution, as one of the principal conditions of suffrage. The choice of mere domicil depends simply upon the declaration of the person; it is not necessary for him to reside in the parish which he has declared to be his domicil, but persons having contracts to enforce against him are under the necessity of proceeding against him at his domicil, although he never sets foot there. Our legislature admits of the fact of a man having two domicils—certainly it will not be pretended that he may exercise his political rights in either or in both! If he fail to declare his domicil, and if he resides occasionally in two parishes both are considered his domicil, and the courts will allow actions to be brought against him in either. This illustrates the difference between domicil and residence connected with political rights, and shows that there are great objections to entrusting the latter to ordinary legislation. Our system of domicil for the exercise of civil rights, are exceedingly vicious.

Mr. Benjamin would read to the Convention the existing laws prescribing how residence was acquired. The law of 1813. (Mr. B. here read the law referred to.)

Now, Mr. President, (said Mr. Benjamin) under the provision of the existing constitution, to be entitled to the right of suffrage, it required one year's residence and the payment of a State tax. The constitution prescribed the term of residence and the tax, but did not point out the mode in which residence should be acquired. The legislature immediately after the adoption of the constitution, provided by law for carrying out this provision, and enacted the law which I have just read. Has any difficulty or confusion ever arisen upon the subject? I know of none! The delegate from Assumption (Mr. Taylor) has spoken of a distinction between civil residence and political residence. This distinction is unknown to our laws, and the legislature have provided indiscriminately for both under the constitution. The law prescribes how residence is acquired and lost. It is true that during elections, during periods of high political excitement, some contests have arisen upon the requisition of one year's residence. Whether it should be a consecutive residence for the whole year, without quitting the State for a moment, or whether a temporary absence on business or pleasure could effect the actual residence. The question has arisen at elections, whether a person going for recreation to Pass Christian, had lost his residence, and whether by crossing from Vidalia to Natchez, residence could be lost. Different interpretations on such occasions, have been given to the law. The supreme court have decided that it was sufficient to continue residence, if the person absenting himself had left any indication of his intention to return. The subject is open to a thousand exceptions, and there is no way of providing for them by any general constitutional rule. Suppose a man was to buy a house and have all his interests in the city, and yet periodically, every summer, should choose to absent himself with his family and go to the Virginia Springs, and instead of leaving a servant in charge of his house, should lock it up and carry the key with him. Would it be said that he had forfeited his residence? that he was disqualified from political privileges? We cannot foresee all the exceptions that may arise. It is, therefore, better to commit the subject to the discretion of the legislature. It has been exercised by the legislature for thirty years, and no detriment has been the result. Residence has never been a political question, except at the ballot box, where it has been raised to exclude the votes of individuals supposed to be favorable to the one or the other of the political parties. But constitutional provisions, however minute they were, and they would have to be minute to embrace the whole subject, would be exposed to different construction under similar circumstances; and the only difference in fact would be, that the evils found to exist would in the one case be readily obviated, while in the other they would be permanent. It was better the question remained where it properly belonged, to the representatives of the people, fresh from the people, and reflecting the will of the people!

Mr. Downs called for the previous question, and it was sustained. Yeas 45 nays 10.

Mr. Miles Taylor, at the request of Mr. Conrad of Orleans, moved for the reconsideration of that part of the section limiting the period of absence to ninety days.

Mr. Conrad: I consider the provisions of this section as another yellow fever qualification!

The question was taken on the reconsideration, and it was decided in the negative; yeas 25, nays 32.

Mr. C. M. Conrad: I am opposed to the section, but inasmuch as the majority are in its favor, I would suggest to them the propriety of making it as clear and as unambiguous in language as possible. I would therefore suggest, that the word "consecutive" be placed before the word "ninety days."

The house assented to this correction.

Mr. C. M. Conrad then moved to strike out the words "or mechanical pursuit," which correction was also concurred in.

Mr. C. M. Conrad moved to strike out the words "by him in such business."

Mr. Wadsworth saw no necessity for this verbal correction, inasmuch as a person employed was as much employed in the business of his employer as if he understood the business. A carpenter might employ a clerk to represent him in his business while he was absent, although the clerk understood nothing of tongueing and grooving; and it would not be improper to say, employed by him in his business. The clerk was incidentally employed in the business of his employer. However, it was a matter of moonshine, one way or the other, and he did not care about it, but certainly if the carpenter employed a person in his shop, that person had something to do with the shop.

Mr. Conrad said that one might be employed to take care of an establishment; to protect the residence of the proprietor, without being employed in his business.

Mr. Lewis called for the previous question.

The words "in such business," were struck out.

Mr. Claiborne said he would have preferred four months to ninety days. But inasmuch as the section only had reference to the acquisition of residence, he would vote for it.

The question was taken, and the yeas and nays called for—yeas 34, nays 31.

Mr. Conrad of Orleans, gave notice that he would call up his proposition upon suffrage, on Thursday next.

On motion of Mr. Downs, the Convention proceeded to the consideration of the formation of the judiciary department.

REPORT OF THE MAJORITY OF THE COMMITTEE.

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the city of New Orleans as the legislature may from time to time direct.

Mr. Ratliff proposed to substitute article one of the report of the minority committee, which is in the following terms:

Sec. 1. The judiciary power of the State shall be vested in one supreme court, in district courts, and in such inferior courts as may be established by law.

Mr. Ratliff: It will be seen by the report of the majority, that the transition from district courts is to justices of the peace. The city, however, has been excluded from the operations of the provision, and it only is to apply to the country. I think that this transition is not expedient, and I cannot concur in adopting a rule for the benefit of the city, which is not extended to the country. I think that sound considerations of policy dictate that the legislature should be vested with a discretionary power in the establishment of courts which the exigencies of the country may require, and to modify the system that may be adopted, as experience shall suggest. I would prefer to hold on to the old constitution, because it gives to the legislature a control over the matter, and does not bind us to a system that may prove detrimental to the best interests of the country. We should consider that what might answer to-day, may not answer hereafter. The country is in a state of progress, and circumstances may arise which may render legislative interposition necessary. If you tie up the hands of the legislature, you make them impotent, and you may entail upon the country a system which you may hereafter have cause to regret. We have

some experience; we have a system which, although it may not be free from abuses, is open to amendment. Let us prune away the excrescences, wherever we find them, but do not let us cut away the system to which we are accustomed, and build up one, which after all may be good, but the beneficial results are only conjectural. That the supreme courts should be established constitutionally is proper enough, but for the inferior tribunals, it seems to me that it would be the part of wisdom to place their establishment to the best judgment and discretion of the legislature. We shall not have fulfilled our duties, if instead of improving the present system, we shall inflict upon the people another, of which they may complain, and from the thraldom of which it will be impossible for them to obtain immediate relief.

Mr. Roselius: As I perceive that the chairman of the committee (Mr. Grymes) is not in his seat, I deem it my duty, as one of the committee that concurred in the report; to state the views that actuated the majority in presenting their report to the Convention, recommending a scheme or project for the judiciary department of the government. They were actuated by what they conceived were correct principles, to be embodied in the constitution. They assumed for their guidance that there were three distinct departments of the government; three great powers which are independent of each other—the executive department, the legislative department, and the judiciary department; that is to say, three powers which should move in their proper spheres—in their appropriate orbits. They should move harmoniously—without clashing with each other, and without interfering with each other. If this theory be correct; if it be a sonnd principle of political organization, the consequence is, that in adopting the judiciary department of the government, we must adopt such a department as is independent of the executive and of the legislative departments.—as independent as those two are independent of the judiciary department. And, sir, how is this to be done, unless the judicial power be invested in certain officers exclusively, whose attributes, and whose duties shall be enumerated in the fundamental law?

You have said that the executive power of the government shall be vested in the governor. The legislature cannot transfer from the executive department any of its power, and vest it elsewhere. You have decided in what bodies the legislative department shall be vested; they are independent of the executive, and he cannot diminish the power of one branch to increase the power of the other. You have said that the power to make laws shall be exclusively vested in the senate and house of representatives, and shall be exercised only by them. Hence it is clear that no part of the legislative power can be transferred to any other. It is fixed; it is irrevocable as long as the constitution endures. With regard to the class of officers by whom the legislative power is to be exercised, they are enumerated in the constitution. Why not the same principle for the other department of the government—the judiciary department? It will scarcely be assumed, I hope, that the judiciary department is not as important as the other two. In my humble opinion it is the most important. It will not be contended, I presume, that it is subordinate, that it is not a co-ordinate department, its power as necessary to the administration of the government as either of the others. Therefore I am at a loss to conceive what objection can exist to designating the officers in the constitution by whom that important power of the government is to be exercised; powers infinitely of more importance than the powers of the other two departments. But gentlemen may say that we should not divest the legislature of the power to change the courts and establish others. Will it not strike the apprehension of gentlemen, that if the power be given to the legislature to change the courts, that it will be perverted to legislate judicial officers out of office. This has, unfortunately, been done on more than one occasion, in violation of the constitution.

Under the constitution of the State, or the constitution of the United States, the legislature nor congress have no right to legislate a judge out of office by abolishing the office. It is an outrageous violation of the constitution. If the power be given to the legislature to institute one class of judicial functionaries, you make the judges dependent upon the legislature; you reduce the judiciary from is position as a co-ordi-

nate branch of the government, into a subordinate, a subservient branch of the government. It is to prevent this abuse of power that the majority of the committee have submitted a system that will lead practically in establishing in the great political, the great fundamental law, the principle of putting the judiciary beyond the control of the legislative department. The functions of the judiciary are of such a character as to make it necessary that they should protect the constitutional rights of the citizens, when the legislature may have transcended their powers. They have unpleasent duties to perform. To remove a judge by abolishing a court, what can you expect will be the result? The incumbent will be subjected to the control of the legislature, and if he be called to decide whether the legislature have oversteped its legitimate powers and contravened the constitution, will he feel that independence that he ought to feel? The judiciary system, instead of being a blessing, will be the greatest curse. Any thing but an independent and honest judiciary is the greatest curse which the people can suffer. How can any plan or system be suggested by which its independence may be preserved, without designating its high functionaries? If any such plan or system I will listen to it with defference. The plan of the gentleman from Florida (Mr. Ratliff) will not attain the object. It falls short of any amelioration. It is no improvement upon the old constitution in any particular, in relation to this subject. The legislature, under the old constitution, have usurped a power which does not belong to them; they have violated the constitution by legislating judges out of office. I need not refer to the particular instances. They have exercised it, and no constitutional lawyer will disagree with me when I assert that it was a violation of the constitution. The evil is to be guarded against by providing that there shall be one supreme court, and district courts under the constitution. That places the judiciary upon the same level; it secures to it the same independence which is guaranteed to the legislature and to the governor. The section offered as a substitute from the report of the minority of the committee, proposes to leave the control, with the exceptions of the supreme court, entirely subject to the discretion of the legislature. It proposes that the judiciary power of the State shall be vested in one supreme court, in district courts, and in such inferior courts as may be established by law. It is true that the power is vested in a supreme court, and in district courts not established but which are to be established from time to time by the legislature. But be that as it may, it is conferring a very uncertain power, and infringes a great principle, without which it is impossible that this Convention, or any other similar body, can frame a republican system of government, and that is, there must be three great departments of the government independent of each other. If we do not do our duty and give to the judiciary sufficient independence and efficiency, the people will complain. If the judiciary be guilty of derelictions, let us point out specifically the manner in which they may be made answerable for these derelictions. But do not let me be told that the legislature shall control the judiciary. If you do this, the sooner you give up the idea of framing a constitution for the benefit of your constituents, the better.

Mr. Read proposed to insert in the first section of the report of the minority, the words "in as many district courts" instead of "district courts." The section would then correspond with the principle consecrated in the constitutions of the other States. As far as he had examined, he had not seen a single constitution which sanctioned the principle enunciated in the first section of the report of the majority of the committee.

Mr. Ratliff had had but little consultation in making the proposition which he had the honor to submit. His object was to make the section acceptable to all parties. He had no objection to the establishment of the supreme court in the constitution. It was a tribunal for the whole State. The gentleman (Mr. Roselius) in speaking of the judicial power, had said that it ought to be placed beyond the control of the legislature. In desiring, said Mr. Ratliff, that the legislature should have the power to create such courts as the public exigencies may require, I had certainly no intention that these courts once established should be under the control of the legislature. I wished that the judges

should be independent of all such control, and should only be reached by impeachments, if they were guilty of any malfeisance in office. The city has been taken care of; and for her it has been provided that the legislature shall be competent to establish such courts as they think fit. If this provision be necessary for the city, why is it not necessary for the country? In a political point of view, the country has been admonished to take care less she be swallowed up, and to keep her hands out of the lion's mouth. I do not apprehend any collision here; but as the same necessity may exist for the country that is assumed to exist for the city, I move that the words in the fourth line, "in the city of New Orleans," be stricken out.

Mr. Eustis: Success in organizing the judicial department of the government can only be insured by moderation, matured consideration and reflection. If the country and city feeling be let loose, we shall have no judiciary worthy of the name—all is lost. I shall offer at the outset some observations for the consideration of the Convention. The report of the majority, which may be defective in some particulars, has been elaborately prepared; it has received great reflection, and will receive great reflection. I would crave members who may design to prepare amendments to the system it suggests, which I do not say is good or bad, to bear in mind that it has been submitted after mature reflection by men who are conversant with the matters involved. This is a subject which must be approached with great diffidence, even by those whose professional pursuits and great experience have given them the best opportunities of comprehending it in all its magnitude. The gentleman (Mr. Ratliff,) seems to think that there is some favoritism towards the city, in excepting her from the provision expressly appointing the courts for the State. I would inform the gentleman that this proposition came from the country, and I trust that this fact will be sufficient to remove any such impression from his mind. Perhaps the matters of information which I may communicate may be of some service to the Convention in enabling them to appreciate the labors of the committee. I do not propose to debate the subject. I consider it above debate, as demanding the highest order of intellect, the highest impartiality and moderation. The gentlemen composing the judiciary committee were actuated by the desire to establish a system for the country at large. This proposition was suggested by two distinguished delegates. The delegate from Ouachita and the delegate from St. Landry. It did not originate with the city. The delegation from the city on the committee acquiesced in it. For God's sake do not throw the city into the matter, and represent the plan as emanating from the city. I crave gentlemen to consider that this plan may be bad, it may be defective, but do not visit upon it the sin of being of city origin. I should not have offered one word, and would have suffered this preliminary question to be taken, had I not apprehended that the error under which the delegate from Feliciana labored was participated in by some other members, and I found this a suitable occasion for making a few brief explanations. This plan establishes two distinct courts, a supreme court and district courts throughout the State. In relation to the district courts, the reason for their establishment in the constitution is this, that there is a most material difference in the duration of the term of office of the judges. Although in other constitutions, and in the constitution of the United States, it is provided that the judicial power shall be invested in one supreme court and such inferior courts as the congress may establish, yet it must be borne in mind that the judges hold their offices for life; whereas the committee have proposed that the judges should hold their offices for a short term of years. It became a matter of necessity that there should be some certainty, some permanence in the system, and that it should not be abandoned to the inconsiderate action of the legislature, controlled by some temporary majority. That was the reason, and the only reason. The gentlemen from the country thought it expedient and proper, and I am but their organ in expressing that opinion. They thought that these courts were sufficient to transact all the public business, and that the judicial and ministerial functions should hereafter be entirely distinct and separate. As the judges were to hold their offices but for a term of years, it was but reasonable they should have some guarantees for their continuance in office and for their indepen-

pendence. With these explanations I submit the question to the judgment of the Convention.

Mr. SOULE moved to lay the section, for the present, on the table; which motion prevailed.

Mr. SOULE then moved to reconsider the vote by which the city of New Orleans was constituted one senatorial district.

Mr. BENJAMIN said he had also made some motions for reconsideration, but as the hour was advanced, he would move an adjournwent.

Mr. LEWIS moved that the Covention adjourn until to-morrow at 10 o'clock.

The PRESIDENT decided that under the rule this motion was not in order, as 5 o'clock, every evening, was appointed for the meeting of the Convention.

Mr. LEWIS considered that the Convention had the right, and that the majority could not be bound down and trammelled by such a rule. It was in the power of the Convention to determine whether they should meet this afternoon, or to-morrow morning. He would appeal from the decision of the chair.

Mr, DOWNS: I would ask the delegate what are rules made for, if they are not to be observed.

The question was taken upon the appeal from the decision of the chair, and the decision was maintained.

Mr. LEWIS moved for the dispensation of the rules, in order to move for the revision of the resolution establishing afternoon sessions. Leave was refused; yeas 23, nays 31.

Mr. M. TAYLOR gave notice that he would move for the revision of the resolution to-morrow.

Mr. SOULE renewed his proposition to take up the reconsideration of the vote establishing one senatorial district in the city of New Orleans.

The question was taken and decided affirmatively; yeas 30, nays 26.

Mr. WINCHESTER moved for the adjournment. Lost.

Mr. BENJAMIN then moved a call of the house. Fifty-five members present.

Mr. BRENT moved that the vote upon the senatorial district for the city, be taken *de novo*, on Friday next, at 12 o'clock, M.

Mr. GARRETT would inquire if under the rules, it did not require a larger vote to carry the reconsideration of a question than originally voted in favor of that question? If this were so, then the question for reconsideration, just taken, had been lost.

Mr. C. M. CONRAD considered that the question for reconsideration had failed.

Mr. SOULE said he would ask for the vote upon the reconsideration on Friday.

M. C. M CONRAD: That can't be done. The question has been taken and it is lost.

Mr. SOULE: That would be strange, indeed! When the question was first taken on my proposition, there were thirty-seven votes in favor of it. If there be no impropriety in alluding to the dead, I would remark that there are now seventy-six members. Three or four members are absent, exclusive of those that voted for it—for the proposition; that would make forty-two members, an absolute majority, exclusive of the president. It surely will not be pretended that thirty-three members are to control forty-two members!

Mr. SPLANE: The rule does not apply to this case, because the motion for reconsideration was moved before the rule was adopted.

Mr. MARIGNY sustained a similar opinion.

Whereupon the Convention adjourned until this evening, at 5 o'clock.

TUESDAY EVENING, April 15, 1845.

The Convention met pursuant to adjournment.

They took up the report of the majority of the committee on the legislative department. The question pending was on the motion of Mr. Ratliff, to strike out the words "in the city of New Orleans," in the first section.

Mr. PRESTON moved to lay this section on the table, and to take up sections five, six, nine, ten, eleven and twelve, which were concurred in by the minority of the committee, and about which there would be little or no debate. The morning sessions could be devoted to those sections which would ellicit debate, and the afternoon sessions to those sections which would excite little or no discussion.

Mr. PRESTON then moved for the adoption of section five:

SEC. 5. The supreme court, and each of the judges thereof, shall have po wer to

issue writs of habeas corpus at the instance of all persons in actual custody under civil process.

Mr. PRESTON said that if the house should hereafter agree that the supreme court shall issue writs of habeas corpus in criminal cases, it would be very easy to supply the words, in the last line, "and criminal" before the words "civil process."

Section five was adopted.

Mr. READ then moved the adoption of section sixth:

SEC. 6. The appellate jurisdiction of the supreme court shall extend to all cases in which the constitutionality or legality of any tax, toll, or impost of any kind or nature soever shall be in contestation, whatever may be the amount thereof; and, likewise, to all fines, forfeitures, and penalties, imposed by municipal corporations.

Section six was adopted.

Mr. SOULE moved the adoption of the seventh section, and his motion prevailed.

SEC. 7. The supreme court shall have appellate jurisdiction in criminal cases, on questions of law alone, in all cases in which the punishment of death or hard labor may be inflicted, or a fine exceeding three hundred dollars is actually imposed.

Mr. BRENT moved the adoption of section nine, which motion prevailed.

SEC. 9. The judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be, "The State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude, against the peace and dignity of the same.

Mr. PRESTON then moved to amend the fifth section; to insert the words, "and criminal," before the word "process" in the last line.

Mr. BENJAMIN would inquire whether it was contemplated that the supreme court should issue writs of *habeas corpus* in all cases. There was scarcely a day that there were not some of these writs obtained from the inferior courts.

Mr. PRESTON replied that it was only in matters connected with the jurisdiction of that court.

Mr. Brent proposed to amend by adding the words "in all cases in which the supreme court have appellate jurisdiction."

Mr. GARRETT was of opinion that the supreme court in all cases should be competent to issue writs of habeas corpus. It should not be limited to the question of mere jurisdiction. He thought it better to postpone this section until there was a full house. The supreme court should not only have appellate jurisdiction upon writs of habeas corpus, but should have original jurisdiction in issuing them.

Mr. RATLIFF said he did not pretend to have much legal learning, and if he differed from the distinguished lawyers that had taken a position on this subject, it was with great diffidence. There were certain difficulties in this matter that suggested themselves to his judgment. Section seven declares that the supreme court shall have appellate jurisdiction in criminal cases in which the punishment of death or hard labor may be inflicted, or a fine of three hundred dollars be actually imposed. There appeared to be no connection between the fifth section and the seventh section. At what time will the supreme court exercise the superior control provided for in the seventh section? It must be after the sentence is pronounced, for upon the sentence depends whether that court shall have jurisdiction or not. Now, according to the fifth section, a writ of habeas corpus will be immediately from the supreme court; it will be attended with serious inconvenience. That court may examine a case, upon which it may find on investigation, it has no jurisdiction. A man is accused of a crime in a distant parish, and is lodged in jail to answer the charge, what will be the consequence? Will he be brought before the supreme court? Why not leave his case to the judge of the first instance, and if the judges commit an error, that error can be corrected upon appeal to the supreme court. If it decides that the man should be restored to liberty, it is done without delay, and with comparatively little trouble and expense.

Mr. PRESTON said that the delegate from Feliciana had taken a common-sense view of the subject. The majority of the committee were opposed to granting the writ of habeas corpus in criminal matters, alleging that it would interfere too much with the business of the court, and would be too serious a burthen. The minority of th

committee were in favor of conferring that power in some particular cases that might arise. It would not be proper to extend it so far that its exercise might be abused. In criminal cases, a father of a family might be imprisoned on a charge of murder. The law says that bail shall not be allowed except where the proof is evident, and the presumption great. There might be prejudices against him, and it might be necessary in order to ensure him a fair hearing, that he should go before the supreme court. Why should be not have the privilege of the habeas corpus, and be brought immediately before the supreme court? Such cases would happen but seldom, but when they did happen, a ready and effectual remedy ought to be provided, if the party were actually entitled to relief.

Mr. C. M. Conrad saw insuperable objections to giving original jurisdiction to the supreme court upon writs of habeas corpus in criminal cases. How was that court to ascertain that it had appellate jurisdiction over the case until the writ was returned? The body would have to go before it before it could determine the question of jurisdiction, and that would in effect be giving it original jurisdiction. If it be invested with power to issue the writ of habeas corpus, it ought to be restricted to such cases where the inferior court had refused to issue it.

Mr. Ratliff would observe that where the inferior court refused the writ, it would only be necessary to bring the records up, for the supreme court to determine the question. This would be an efficacious mode, it would be prompt and economical, and would afford adequate protection.

Mr. Benjamin said that as soon as the house were decided upon the point that the supreme court should exercise appellate jurisdiction only, and be dispensed from trifling cases, we would be enabled to accommodate the present difficulty by providing that she should exercise the power involved, in all cases that depended upon her jurisdiction of appeal.

Mr. Soule was apprehensive that the Convention might not agree. The object of the committee was palpably to give a safe-guard to the citizen. Inasmuch as no man can be arrested and kept in confinement without a specfic charge against him, every court should have the power of opening his prison doors and relieving him from an illegal imprisonment. If there existed any cause which would make it doubtful whether the inferior court would grant redress, the right to apply at once to the supreme court, ought to be vouchsafed —for that court might reasonably be presumed to be free from the hasty passions of the moment. This is not in the nature of an obligation imposed, but of a power conferred for the ends of justice, and which may or may not be exercised.

Mr. Preston said that it would follow from the same power, that the supreme court might force the criminal court, for example, to render a judgment in cases where the judgment of that court had been delayed beyond a reasonable period, and it would have the faculty of interposing its authority in a case where a man was unjustly condemned and about to be hung. The supreme court would issue a writ of mandamus, of procedendum, or prohibition, as the case might require. The habeas corpus is an original writ of right. There is no such thing as an appeal.

Mr. Roselius: No where but here!

Mr. Conrad of Orleans, was not disposed to dispute that the writ of habeas corpus was an original writ, but he was not disposed to give to the supreme court original jurisdiction in all cases where parties agrieved might require it. He had an objection that the supreme court should exercise a supervisory control.

Mr. Roselius moved to lay the subject on the table, subject to call.

Mr. Saunders moved to lay it indefinitely on the table.

Mr. Winchester moved for the reconsideration of the fifth section; which motion prevailed.

Mr. Saunders was opposed to giving the supreme court an original jurisdiction in cases of habeas corpus. He did not think that, as an appellate court, it could exercise any other than appellate jurisdiction over those cases.

Mr. Brent differed in opinion from the delegate from Feliciana, who had just resumed his seat. He thought that gentleman misapprehended the question. The simple question was this, shall we invest the supreme court with jurisdiction to pro-

tect the liberty and lives of our fellow citizens? The writ of *habeas corpus* was an original writ. He had never heard of an appeal upon a writ of *habeas corpus*. As for the expense, it was exaggerated, and as for inconvenience there would be none. A man confined in prison, in the country parishes, desiring the interposition of the supreme court in his case, would wait until the court came into his district.

Mr. WINCHESTER said that the Convention were losing its time in attempting to find a remedy before they found the evil to which that remedy was to be applied. He objected to the whole section, because it was calculated to produce a collision of jurisdiction. No difficulty has ever arisen in the country in relation to these courts, to his knowledge. It was adding a great deal of business to the supreme court, without any obvious utility.

Mr. MARIGNY was in favor of the rejection of the section.

Mr. EUSTIS said that the business of the supreme court was very extensive. Its jurisdiction extended in civil matters where the amount in dispute exceeded three hundred dollars. It had therefore a labor to perform as extensive as it was complicated, and for that reason he was indisposed to extend its jurisdiction to criminal matters. I thought it was inexpedient to do so; and I was strengthened in that opinion by the fact that there never has been flagrant injustice done in the court of the first instance, with the exception of a solitary case. But nevertheless, as the community were in favor of a court of errors in criminal matters, it was conceived to be proper to give the supreme court appellate jurisdiction, and to review questions of law exclusive of questions of fact. The supreme court was then invested with the power of reviewing questions of law which might arise, and as a consequence it was not invested with the power of issuing writs of *habeas corpus* in criminal cases. It was presumed that the district courts would be amply sufficient for that purpose, and that no great hardship could arise. I have the highest deference for the opinion of the attorney general, whose experience must entitle them to great weight; but I would ask him what he means when he says that this original jurisdiction should extend only to cases of great importance? Does he mean where the accusers are men of an elevated position in society, and where figure the most eminent members of the bar? But these cases are rare, and they have the means, as in ordinary cases, to obtain immediate relief from the district courts. I think that these writs should be confined to civil process, and if you impose the burthen which would grow out of the jurisdiction proposed to be extended to the supreme court, you will be imposing upon that tribunal greater labor than it will be able to prosecute satisfactorily.

Mr. PORTER moved that the section be laid upon the table, subject to call; which motion prevailed.

The Convention then took up section tenth:

SEC. 10. The judges of all courts shall, in all cases, give in writing their reasons on which their judgment is founded.

Mr. BENJAMIN offered as a substitute for the said section, the 12th section of the constitution of 1812, and the same was adopted, viz:

SEC. 12, of 1812. The judges of all courts within this State shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may have been rendered, and in all cases adduce the reasons on which their judgment is founded.

On motion, section eleven was taken up.

SEC. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions, but such as are purely judicial; and no other duties or functions shall ever be attached, by law, to the office of a judge, but such as are judicial.

Mr. BEATTY moved to lay said section on the table subject to call.

Mr. SAUNDERS moved that the Convention adjourn till to-morrow at 10 o'clock, a. m.; the motion was lost, the vote being equal, the President voted in the negative.

Mr. BEATTY then renewed his motion to lay the said section on the table, subject to call, and the same was carried.

On motion, section twelve was taken up, viz:

SEC. 12. No court, or judge of any court, shall ever have the power, by any order or judgment, in any suit, process, or other proceeding before them, or pending in

such court, to order or adjudge any money to be paid by the parties to such suits or proceedings, or make any allowance out of any money or property that may be in actual custody of said court or officers thereof, except for the payment of the legal fees of the ministerial officers of the said court, as allowed and established by law.

On motion of Mr. SAUNDERS, said section was laid on the table, subject to call.

On motion section thirteen was taken up, viz:

SEC. 13. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of three-fourths of each house of the general assembly.

Mr. BEATTY moved to reject this section. He said that as the judges were to hold their offices under the new constitution but for six or eight years, and were subjected to impeachment, it was not necessary to provide for their removal by address. The first part of the section was already provided for, and it was superfluous.

Mr. PRESTON suggested the fifteenth section of the minority report as a substitute, as follows:

SEC. 15. For reasonable and stated cause, which shall not be sufficient ground for impeachment, the governor shall remove any of the said judges, the attorney general and State attorneys, on the separate address of each house of the general assembly.

Mr. SAUNDERS said, that the very idea of such a proceeding filled him with horror. It was preposterous. We are asked gravely to bind the judiciary, hand and foot, and to deliver them over to a faction that may obtain a temporary control in the legislature. The thing was utterly unreasonable. The judiciary was in a fair way to be abundantly trammelled, without going to so unreasonable an extent.

Mr. RATLIFF said, that radical as he was he could not swallow—he could not go for this. He could not consent that a bare majority of the legislature should exercise so dangerous a power. He presumed that the mode of addressing judges out of office was intended to operate in cases where they were not amenable to impeachment—where they were incapacitated by moral or physical causes. They might in such cases be removed without being subjected to odium. He would concur that the governor should exercise the power of removal without the concurrence of three-fourths of both houses of the general assembly. With the gentleman from Feliciana, (Mr. Saunders) he thought the proposition of the delegate from Jefferson (Mr. Preston) was one of the worst features that could be embodied in the constitution.

Mr. READ moved to amend said section, by striking out the following words: "But for any reasonable cause, which shall not be sufficient cause for impeachment, the Governor shall remove any of them, on the address of three-fourths of each house of the general assembly," and insert in lieu thereof the following words of the —— section of the constitution of 1812. "But for any reasonable cause, which shall not be sufficient cause for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly; provided, however, that the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted on the journal of each house."

On motion, said section was adopted as amended, viz:

SEC. 13. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient cause for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly; provided, however, that the cause or causes for which such removal may be required, shall be stated at length in their address, and inserted on the journal of each house.

On motion, the Convention adjourned till to-morrow, at ten o'clock, a. m.

WEDNESDAY, April 16, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

On motion, leave of absence was granted to Mr. Cade.

On motion of Mr. LEDOUX, the vote

adopting the 13th section of the majority report of the committee on the judiciary, adopted on yesterday, was reconsidered.

On motion of Mr. Ledoux, said section was called up, viz:

Sec. 13. "The judges of all courts shall be liable to impeachment; but for any reasonable cause which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly: *Provided*, however, that the cause or causes, for which such removal may be required, shall be stated at length in the address, and inserted on the journal of each house."

Mr. Ledoux moved to amend said section, by inserting after the words "three-fourths," the words "of the members present."

Mr. Lewis said he had very serious objections to this amendment. If it prevailed, the result might be that you would have a man removed by the minority of the members of the legislature. The objections were palpable to his mind. If the house of representatives be composed of one hundred members, fifty-one would form the quorum, and if the senate be composed of thirty-two members, seventeen would form the quorum. The three-fourths of the former would be thirty-seven, and the three-fourths of the latter would be thirteen; that is, about fifty members of both houses; and the singular position would be presented, of an actual minority having the power to remove any officer except the governor, and it was not likely that he would remove himself if he were addressed to that effect. This position was too radical. He granted that heretofore, it was too hard to remove a judicial officer. But desirable as it was to get rid of a bad officer, it was expedient to retain a good one. One swallow did not make the summer, so one abuse did not justify another.

Mr. Miles Taylor said that among the number of reasons submitted by the delegate from St. Landry, (Mr. Lewis) was one which claims some attention. It is this: that it might happen that a minority might remove a judicial functionary. I admit that this is possible, but it is barely possible, and even should it be likely to occur, I hold that it is not of so serious a character as to prevent the adoption of the section. It declares that there shall be a concurrence of three-fourths of the general assembly, and it would seem to be its plain intent and meaning, to refer to those upon the floor. And there are members on this floor, gentlemen of large experience, who give it that construction, and think that the amendment proposed is superfluous. But in order to prevent misconstruction, it has been deemed proper so to express it in the section. If the house be composed of ninety-eight members, to obtain the dismission of a judge, seventy-five members of the house would be necessary, if we adopt the rule that we are to estimate three-fourths of the total body. In the senate, composed of thirty-two members, it would require twenty-four, making a united vote of ninety-eight members. Now if we have reference to the sessions of the legislature, and of this body, we shall find that for nine-tenths of the time, from the beginning to the termination of the session, one-fourth of the members are absent. Now it might happen that each individual member of the legislature were in favor of the destitution of a particular individual, and that there were strong reasons for immediate action, and yet because one-fourth of the members were absent, both houses would be powerless. I think that any principle which can entail such consequences must be improper. Although on the other hand, it may happen that a minority may act in the destitution of a judge, it is only possible; and is so barely possible that it may be considered improbable. If it should really happen that a bare minority should be disposed to act in that manner, is there not every reason to believe that one-fourth of those that were present, would refuse to concur? The difficulties to which I allude, may exist, and would lead to consequences lamentable indeed. It is surely the part of wisdom to suggest some means to prevent an unworthy public functionary from injuring the people.

Mr Ratliff said he listened always with pleasure and instruction to what fell from the delegate from Assumption. It was as plain as language could make it. What constitutes a house? That appears to be the question to be resolved. If the house of representatives, composed of one hun-

dred members were to assemble, and on the first day of that session there should be but forty-eight members present, there would not be a quorum, and the house would adjourn until the next day. If the senate on the first day of the session were to meet, and but fifteen of the thirty-two members of that body were to answer to their names, they would also adjourn over for a similar cause. If they were to meet on the next day, and the house was to consist of forty-nine members, there would still be no quorum of either body. But if on the following Wednesday, the house upon meeting and calling the roll should find fifty-one members, and the senate seventeen, both bodies would organize; they would then become a house. They would elect their officers, and they would be constituted into the general assembly of the State. The three-fourths would be readily construed to mean after the organization. It might result in great injury to make the amendment proposed. The right of addressing in such cases was intended to apply where the functionary might be physically or morally incapable.

Mr. LEDOUX called for the previous question, which was ordered.

Mr. GUION called for the yeas and nays upon the motion for the adoption of the amendment.

Messrs. Beatty, Boudousquie, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, Kenner, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St Landry, Preston, Prudhomme, Pugh, St. Amand, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative —33 yeas; and

Messrs. Benjamin, Conrad of Orleans, Culbertson, Dunn, Eustis, Garrett, Guion, Hudspeth, Legendre, Lewis, Mazureau, Porter, Ratliff, Read, Sellers, Wikoff, Winchester and Winder voted in the negative—17 nays; consequently said motion was carried, and the amendment adopted.

On motion, the 13th section as amended was adopted, viz:

SEC. 13. "The judges of all courts shall be liable to impeachment; but for any reasonable cause which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly; *Provided*, however, that the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted on the journal of each house."

ORDER OF THE DAY.

The Convention resumed the consideration of the first section of the fourth article of the report of the majority of the committee upon the judiciary department.

The question pending being the motion of Mr. Ratliff to strike out the words, "in the city of New Orleans."

Mr. BENJAMIN was opposed to striking out. He said he conceived this to be a proper occasion to express his individual views, and to state the reasons which he thought should influence the Convention in establishing a proper judiciary system for the State. The subject was one of great interest and magnitude to those having any thing to do with the administration of the laws. The first thing that struck the student in commencing the study of the law, was the question of jurisdiction; the first thing that attracted the profound consideration of the practitioner, was jurisdiction. It was a vexed, a most idle and useless source of perplexity. Certain individuals were vested with the power to decide the rights to property and to liberty, in virtue of a commission from the governor, with the approbation of the senate; to decide between man and man, and between society at large and one man. One would suppose that all these controversies would be subjected to the simplest principles; but what is the course? Different individuals are appointed to administer the laws of the country, and to these individuals different names were given. Nay, sir, two names were given to the same individual, and it depended whether you addressed him under his proper title, as it is called, or not; whether your suit was brought or not. For example, you sue before the officer called the parish judge, and you present your petition, but it depends whether you have addressed him properly, to prosecute your action and to obtain the redress you seek. If you have addressed him as judge of the parish court, when you should address him as judge of the probate court, you are turned out of

court and are mulcted in the costs; and, yet, your petition is directed in point of fact to one and the same functionary! If this judge is to determine all controversies why should he have two distinct names to govern two distinct jurisdictions? It must be a constant theme of ridicule, as well as a source of great difficulty and confusion. When we are told that the Chancellor of England cannot give the same remedies in chancery as he can at common law, we laugh at this artificial distinction: we are amused at the idea that if you address him in chancery he can grant you relief, but if you address him at common law he cannot, and *vice versa*; and yet he is one and the same person, and appointed for one and identically the same purpose. We are at loss to conceive why this difference. Are we not doing the same thing? This question of jurisdiction meets us at every step, not only in reference to the parish and probate courts, which are filled by one and the same person out of the city, but between the district courts and the courts of probates. You bring a suit before one of your judges, the plea of jurisdiction is raised, it is enrolled by the court, and you go on and obtain judgment. An appeal is taken, and the supreme court decides that the court below had no jurisdiction. Here you are saddled with all the costs, and have to begin the proceedings *de novo*. We have forty-six parish courts, and, as if that was not sufficient, we have ten district courts besides, and a host of inferior judges with their taxes and costs. They can have no other result than to benefit lawyers, sheriffs, clerks, &c., &c. I defy any man to prove to me that all the legal business could not be done by one-half of these courts. The cause of all the difficulty is their accumulation, their different names and their conflicting jurisdictions.

I had not the honor, said Mr. Benjamin, to be a member of the judiciary committee, but while the Convention were at Jackson the organization of that department was a theme of constant conversation among us. It was our usual afternoon topic, while reposing upon the green turf, under the shade of the trees that surrounded the college building. And I really believe we did more by these consultations than we have accomplished in two months' sessions. My views were freely expressed upon those occasions, and they were participated by several delegates whose experience had led them into a similar train of thoughts, that we should have but one set of inferior courts and a supreme court. The advantages which would result, I considered to be the uniformity and simplicity of such a plan. I care not what particular name you may appropriate to these inferior courts; you may invent any name you please; all that I am solicitous about is that there should be but one set of courts, of original jurisdiction. That any man desiring to obtain legal remedies may go to one judge; and that you cut away all the mass of litigated cases growing out of vexed and intricate questions of jurisdiction The attempt to unravel them never promoted the investigation of great principles of jurisprudence; and why they were invented I do not know. Let it be established that there shall be but one place for all species of litigation, and for one general and universal jurisdiction. Let us have one appellate supreme court. The simplicity of such a system recommends itself to the comprehension of a child. I anticipate that it will excite objections, but these objections will be made by men who live by and are interested in the continuance of the former state of things; the people will not participate in them.

If we refer to the sixteen volumes last published, of the decisions of the supreme court, we shall find a large portion occupied with decisions upon questions of jurisdiction; to deciding whether in a particular case, the judge has been properly addressed as parish judge, or judge of the court of probates. After long and tedious investigation and great research, they have determined whether he should be called parish judge, in reference to a particular matter, or probate judge! It is no uncommon case, and if any gentleman doubts it, I can point it out in these authorities, for the supreme court to pronounce in favor of a certain jurisdiction, and afterwards pronounce against it. A practitioner at the bar examines the decisions for the purpose of enlightening himself upon the subject of jurisdiction—he finds that in a certain suit, which is parallel to one that he intends instituting, A. is pronounced to be judge of the probate court, and it is decided that it was a fatal error to style him judge of the parish court.

Being fortified by this decision, he institutes proceedings, and styles the judge accordingly. An appeal is taken, and it is determined upon that appeal that these proceedings are wrong; that A. is not probate judge, but parish judge! Before a decision is finally had the party against whom the proceedings have been had, is dead and his estate is insolvent. And thus for the mere satisfaction of settling the point, whether you should address the judge as parish judge or as probate judge, you have to incur vast expenses and trouble, and to find at last that you have lost all recourse. These are evils which loudly call for a remedy. I repeat that I am indifferent as to the title you may confer upon your courts; you may call them what you please, provided you institute them with one broad common and general jurisdiction; provided that the fundamental rule shall be, that their jurisdiction is universal and unlimited. Why, I would ask, should there be appeals to the district court, and from the district court, in the same matter, to the supreme court? Why not take the appeal directly, and at once, to the supreme court? Is it not a strange contradiction that a judge in his quality of parish judge, should not have jurisdiction beyond three hundred dollars, when the very same individual as judge of the court of probates, may exercise an unlimited jurisdiction, and pronounce upon a case involving three hundred thousand dollars or more; and when you enter in our supreme court you find five men seated upon the bench, whose age and experience have blanched their hair, seriously occupied in unravelling the thread of conflicting jurisdiction to determine whether you were right or wrong in styling the individual you addressed, in one judicial capacity or another, and resolving whether your suit was well brought or not, accordingly as you style the probate judge or parish judge. Again, there are questions as to the amount of jurisdiction. It is declared, that the parish court shall not entertain jurisdiction beyond or below a specified amount, and here comes the question, are costs and interest to be included in the amount specified? I hold that these questions have no other practical result than to enable clerks and lawyers to make money. Is such a system, so prolific in its abuses, to be perpetuated—and it must be perpetuated, unless you establish courts with but one kind of universal jurisdiction. The gentleman from Feliciana (Mr. Ratliff) objects that there should be an exception in favor of the city of New Orleans. If it can be construed into a favor I do not desire it, as far as my humble capacity extends, I do not consider it a favor. If it were such, I would be ready to relinquish the boon on the spot. But there is an exception which arises from the exigencies of the commerce, and which renders it indispensable that there should be courts established in the city that should pronounce instantly upon questions that may be brought before them. A vessel may be sequestered, and in order that she should not be unnecessarily detained and her value be swallowed up in expenses, it is necessary and requisite that some court should be vested with the power of deciding summarily upon the case. There must be a tribunal ready to give prompt and immediate attention to commercial matters, but whether you call that tribunal a commercial court, or by whatever name you please, is immaterial. This exception is indispensable, on account of the wants of a great commercial city. But whether you have a special tribunal under a particular name, as the commercial court, or appropriate a district court to such business, amounts, after all, to the same result, so that you provide for this immense amount of litigation in a satisfactory manner. Establish two or three district courts in the city, and let the business of the city be distributed among them. You have provided for the establishment of eighteen district courts throughout the State. New Orleans contains one-third of the population. She should have more than one district court. Give her two or three, and let a preference be given to the trial of commercial cases. We are now surrounded by courts and subjected not only to conflicting jurisdictions, but to great inconvenience in the transaction of public business. We have a district court, a parish court, a commercial court, and the presiding city court. The ancient records ought to be kept in one place, where they would not be mislaid, and where they would be of easy access. We ought to establish the judiciary upon sound and proper principles. There should be an unity and a simplicity in all its parts. There should

be but one original jurisdiction, and but one appellate court. Whether you call this a parish court, or a district court, is to me a matter of no moment. Let its jurisdiction be limited by territorial extent, and let it have jurisdiction in all matters of legal controversy. Such a system will redound to the credit of the State, and will free her from those enormous costs which have been a disgrace upon her jurisprudence.

Mr. Dunn would vote in favor of striking out. He concurred in all that fell from the gentleman from New Orleans, (Mr. Benjamin) which favored the adoption of all means essential to the furtherance of justice and the adoption of the judicial system to the public exigencies. He would vote to strike out; not because he conceived that there was any favoritism towards the city designed, but for this simple reason—that he was not aware that public opinion required any particular courts differing from those which have heretofore been in existence. He apprehended that the present system might be simplified and improved, and if that could be done he was averse to making so radical and thorough a change. He thought it better to leave the organization of the courts to the action of the legislature, and was not advised that the public interests required an exclusive and irrevocable system. In the parish in which he lived no inconvenience was felt, and no complaints were made. There were none of those difficulties experienced in the practice which had been alluded to by the delegate from New Orleans, (Mr. Benjamin) therefore he was unable to say whether the people desired any change. He admitted that the system was susceptible of improvement, but it would be better to leave the power with the legislature. He was not prepared to say whether one court would suffice for the wants of the people. If there be but one court, and that be the district court, it would be necessary to give it jurisdiction in cases of successions. It would be, perhaps, more advisable to leave the question open, for he took it for granted that the legislature would not establish a probate court unless it were called for. If it were called for by the people, it ought to be established. He saw nothing that would justify him in believing that his constituents were disposed to favor the present scheme. If the legislature were to institute a system of courts and they were found not to answer the purposes designed, a remedy could be applied. The present scheme may not work well, and if the experiment should prove unsuccessful, the people should be allowed to establish different courts. He would therefore move to strike out, so as to leave the question open at the discretion of the legislature.

Mr. Miles Taylor moved that the subject under consideration be laid temporarily on the table, in order to proceed to take up his motion rescinding the rule and appointing afternoon sessions.

Mr. Beatty hoped that this motion would not prevail. We had adopted this rule but three days ago, and we were now asked to repeal it.

Mr. Downs was opposed to rescinding the rule; we had met yesterday afternoon and accomplished much valuable work. The beginning was propitious, and if we were really anxious to expedite business we ought to adhere to the rule.

The yeas and nays were called for on Mr. Taylor's motion, and it was lost—16 yeas, 35 nays.

Mr. Marigny could see no good reason for striking out New Orleans. Its extended business required to be facilitated by the establishment of a greater number of tribunals than those that were necessary for the country. He hoped the motion to strike out would not prevail.

Mr. Wederstrandt said that he did not rise to make a speech, but to state that he would vote against striking out. He conceived that the ends of justice would be better assured by dispensing with the parish courts. He did not believe that the system embraced the wishes of the people, more particularly the people of West Feliciana. He felt fully instructed, and he hoped that so odious a system would be expunged.

Mr. Dunn said that it appeared to be the design to preclude the establishment hereafter of courts of probates. If he had entertained any doubts upon the subject, they would have been dispelled by what he had heard. The question was introduced at the threshold to abolish the parish judge system, and to deprive the legislature of any discretionary power in the creation of loyal tribunals. The gentleman from New

Orleans, (Mr. Benjamin) whose eloquent voice was always heard with pleasure, had dwelt upon the abuses of the system. He had uttered a tirade for the purpose of showing that there were many cases which substantiated the defects of the present system. He would ask the gentleman why it was, if these evils were so great and glaring, that he did not propose some remedy when he was a member of the legislature; as for the difficulties growing out of conflicting jurisdiction, that could have been settled by a single dash of the pen.

Mr. Ratliff said, it is apparent, Mr. President, that the section as reported by the majority of the committee on the judiciary, is designed to overthrow the parish court system, and that, without providing any thing adequate to take its place. The delegate from New Orleans (Mr. Benjamin) has endeavored to show that the present system has a great many defects, and that it gives rise to a great deal of confusion and difficulty, on account of its conconflicting jurisdiction. I do not pretend to urge that the system is not obnoxious to some censure, and that it does not need some reform. I readily admit the fact that it might be meliorated. But what I contend for is this, that the legislature should be vested with discretionary power to organize the courts as experience and the wants of the people may suggest. Why not follow this course? It is recommended to us by an experience of thirty-two years. It is said that we must fix the establishment of the several courts by name, in the constitution itself. Why do this? because it is urged that the legislature have established a bad system, and it is inferred that they will not change it. This seems to me to be a strange argument. Why should the legislature continue a bad system? That body has embraced some of the most eminent men in the State, and many of those who so vehemently denounce the parish court system on this floor. Why did not the legislature take some action on the subject? It was surely within their competency to do so. The ready answer to this is, that the system was upon the whole conformable to the wishes of the people. I think that we should act with a great deal of caution upon this matter. I cannot say that I am partial to the parish court system as it is established. I am certainly not in favor of the abuses of the system. I would have them eradicated, and even the system itself abolished, if it could not be freed from the abuses which are so freely attributad to it.

What I am specially solicitous to preserve, is our admirable system of civil laws; the best system in the world, and such has been the opinion of all those who have had occasion to examine it; I remember hearing one of the most eloquent and distinguished men in the United States, a resident of a sister State which has adopted the common law, in an argument addressed to the supreme court, bear his unqualified testimony in favor of that system. He said, alluding to the protection it afforded to women and minors, that it was the best system in the world, and that he wished not only that it was adopted throughout the States but throughout the universe! Before we discard a system with which we have become intimately familiar—before we thrust it out, we should reflect that it is closely connected with our system of laws; we should beware of a sudden transition! It is true that we have eulogisms bestowed upon the scheme which is presented to us to be irrevocably decreed in the constitution. It has been recommended to us on the score of simplicity. We are told that two courts will be all that is necessary. I concede that the scheme is beautiful on paper! It is something like old Foley's land—beautiful in the imagination, but to be found no where else! It is very fine in theory; but how will it operate? The gentlemen say not one word about the expense. Who are to make inventaries, petitions, and other duties now assigned to the probate courts? They do not tell us. Suppose a working man claims but sventy-dollars; how is he to obtain redress? He will have to go twice a year to the district court, and his claim may be postponed by the adroitness of some lawyer; he may come when the court is emersed in business, when the docket is full and he will be debarred a hearing. Is there any provision to meet a case of this kind? A succession may open in West Feliciana, and before the judge of the district court can be in attendence to give the necessary orders, it may go to dilapidation and ruin. Suppose a stranger died in Louisiana, posses-

sed of ten thousand dollars in money, in a hotel or tavern; before any conservatory steps can be taken it may be placed beyond the power of the court. I cannot see how any economy can result by the proposed change; and I am not convinced that it will answer the end proposed. The expenses of settling successions have been frequently alluded to. In some particulars the expenses in other States are greater than in Louisiana; for example, in Kentucky the commission to executors, administrators, &c., &c., are five per cent. If we make the parish judges elective, and have their perquisites fixed by law, we shall do a great deal to remove the complaints that are made. If a parish judge exacts more than his regular fee, what will be the consequence? That his receipts will be taken and published in the public papers. He will be turned out. But we are told that the parish court system is the creature of the legislature: that it is an odious feature, and must be expunged by the constitution. Is it to be believed that republicans, I will not say democrats, will keep up a bad system against the wishes and desires of the whole community who will rise up against it? I think that this is an unjust argument; that it is unjust to the discrimination of the people, who will choose unfaithful servants to represent them; and to the representatives of the people who will violate their solemn duty.

If the distinguished gentleman who has dilated with so much energy against the system, had have given himself the trouble of addressing the same argument to the house of representatives when he was a member of that body, I feel confident that he could have meliorated materially the system, or have caused it to have been entirely abolished. How is it that with so many abuses, the gentleman (Mr. Benjamin) could have suffered the occasion to pass by, of denouncing these abuses and seeking a remedy for them?

I am not, Mr. President, solicitous of public honors. I was elected to the Convention by the free choice of my constituents, without any exertions on my part. I do not know that I will ever go to the legislature again, but if these abuses existed that have been charged against the parish courts, and the discretion were still vested with the legislature, I would study, day and night, to master the subject. I would go to the legislature, if the people reposed confidence in me, and I would raise my voice against the system; I would persevere from year to year until it was expunged from our statute books.

Let gentlemen beware; they may change the name and yet retain all the abuses of the present system. The same duties assigned to parish judges will have to be performed. You may transfer these duties from one class of officers to another class of officers. The expenses of which you complain so much, will continue to be exacted unless you restrict them, and that you might as well do under one system as the other. The pockets of minors will still suffer, and instead of one officer you will create twenty. I am not to be deceived by a change of names! The incumbent of an office remains the same, call his office by what name you please. It is not the name, but the thing, for which I am solicitous.

It has been deemed essential to give the legislature discretion to create courts in the city. Why should the legislature not have the same discretion for the country? If the legislature will not abuse the power in the one case, why should they abuse it in the other? Physical and moral changes may take place. The State is comparatively still in her infancy. Other cities may arise besides New Orleans. The Mississippi may change its course, and a magnificent city may be formed at the mouth of the Atchafalaya.

I have known instances where offices have been sought to be created for the purpose of filling them. I recollect one example where a man attempted to create a new parish out of portions of West Feliciana, Point Coupée and Concordia. He got up some plausible pretext, and continued to urge the matter upon the legislature, from time to time, up to the period of his death, when we heard no more of that scheme. I repeat, if there be errors in the system as we now have it, let them be corrected, not by legislating in the constitution, for I am averse to that, but by laying down wise and salutary principles, and leaving it to the vigilance of the people, and to the integrity of their representatives to carry out those principles in their integrity. I am not afraid to trust the people,

nor to trust those whom they may delegate to represent them. The attention of the country has been aroused, and if the existing system be as obnoxious to censure as has been charged, we may rely upon it that it will be subjected to a rigid scrutiny, both in the legislature, if they be vested with any discretionary power, and among the people, if they have the opportunity of expressing their views.

Mr. Grymes said he had but little to say because he thought it was necessary to say but little. If the people were satisfied with the parish judge system, he had no objection. He rose to concur in the remarks of the delegate from Rapides, (Mr. Brent.) The gentleman from Feliciana was in error when he supposed that altering the name and form of the courts affected the jurisprudence of the country. It had no more effect upon the system of laws themselves, than if the legislature were to abolish the parish courts and substitute some other courts in their places. The laws were the same, and their application were the same. The parish judge system was conceded upon all hands to be most onerous. It was, he confessed, with reluctance that he voted in favor of the exception for the city of New Orleans in the section. He was apprehensive that the power vested in the legislature might be abused, and if he voted for it, it was only from the necessity of the case. There was a tendency in the legislature to create offices merely to provide for certain individuals who wished to be billetted upon the public expense, especially when it did not appear that the treasury was to be taxed. These things were introduced and went through as a matter of course. There was an accumulation of useless public offices, the only design of which appeared to be to afford fees to the incumbents. There was the office alienation; it was a cloy, a tax upon the people to the amount of ten thousand dollars annually, and yet there was no necessity for such an office. The fees were levied out of the purchasers. There was no question as to that. The creation of useless offices had been the practice for the last thirty years. Hence it was that we had so many offices that were in fact superfluous. He was reluctant to confide this power to create courts in the city of New Orleans to the legislature, and would infinitely have preferred to have inhibited its exercise; but being sensible of the great commercial wants of the city, he was impressed with the injury that might result if her legal business was brought to a stand by being left to one district court. He was averse to entering into details in a constitution, but if gentlemen wished to except any of their parishes he would not object to that course. I do not, however, think it is necessary, if the judges be restricted to functions strictly judicial. The ministerial officers of the courts can do all the preparatory or conservatory business. In the cases of successions, they may order their seals to be affixed; the seals to be raised; the inventories to be taken; the necessary publications to be made, and in a word, take all the initiatory steps that may be necessary. There is nothing to prevent the legislature from endowing certain offices with the attributes of a surrogate, or they may establish a register of wills. The object contemplated by the committee is to separate functions purely judicial from those that are ministerial. This object was accomplished by the sections eleven and twelve. These sections he considered important for the welfare of the people. It was of little moment how you christened your courts; but the important matter was to take away the money patronage and make judicial offices purely judicial. He would willingly vote in favor of the proposition to strike out New Orleans, but he was admonished by the necessity that one tribunal was insufficient to do the business of this great commercial emporium. That was his only reason for making New Orleans an exception from what he considered a most salutary principle.

Mr. C. M. Conrad had a few remarks to make. They were made more with a view to explain his vote than to influence the votes of other gentlemen. The discussion had taken so wide a range and embraced so many topics as to dispense him from saying much. What he would say was upon points that had not been touched upon by the gentleman that had preceded him in the discussion. The gentleman from West Feliciana (Mr. Ratliff) had argued the question as if a change in the organization of the courts involved a change of the laws of the land. This

was erroneous. The same gentleman had alluded to an elogium pronounced upon the body of civil laws which prevailed in Louisiana, by a very distinguished and eminent statesman. That eulogium was intended to apply to the system of laws themselves, and not certainly to the body of magistrates who administered them. But does the proposed system for the reorganization of the judiciary interfere with those laws? Unquestionably not. The gentleman seems to infer that some preference is designed for New Orleans. If the system were good, the city would gain nothing by being exempted from its operation; and if it be bad, there is no reason to envy her the exclusion. But there is no force in this argument. What is the essence of this clause, what change does it propose? It proposes that the jurisdiction of the probate courts should be vested in the district courts. There are many powers exercised by parish judges that are not judicial. The parish judge is a *Caleb Quotem*. He is judge, notary, auctioneer, police juryman, &c. &c. He is the *Caleb Quotem* of his parish. Is a petition to be presented for the opening of a succession, to whom is it presented? To John Stiles. Is there an order to be entered upon that petition? Who enters that order? John Stiles. Who makes out the papers as clerk? John Stiles. Is a family meeting deemed necessary for the interest of the minor? Well, before whom is it held? John Stiles. Are the proceedings to be homologated? Who homologates them? John Stiles. Who gives the order for the sale of the property? John Stiles. Who sells it as auctioneer? John Stiles. Who makes out the bill of sale? John Stiles. He first orders and then does. He performs multiform and incongruous duties. He has not alone judicial functions and ministerial functions, but he has ocular functions. He acts occasionally as a village priest, and ties the nuptial knot. But who is this eternal John Stiles? John Stiles is the parish judge. We want nothing but a judge, and that he should be confined strictly to his judicial functions. This section and section eleven are designed to accomplish that purpose. The language of the latter section is perhaps a little loose, and may require some amendment; but the principle meets my hearty concurrence.

If that principle be adopted, the judge will have no other functions than those that are purely judicial, and that will obviate the necessity of having more than one judge for three or four parishes. One judge, relieved of the ministerial functions, will do more than four judges saddled with them, and will do it better. I do not wish to impute any blame to the parish judges. I am aware that there are among them many intelligent and upright citizens, who would adorn any station to which the partialities of their fellow-citizens might elevate them. But on the other hand, it cannot be denied that the ignorance of some of those judges is the cause of great confusion and difficulty, and it may be said that two-fifths of the litigation of the country proceeds from that prolific source. They exercise the most important functions; within the circle of a quarter of a century, all the property of the State has passed through their hands. If they be deficient in intelligence or integrity, who suffers by it? Those that are interested in the proper administration of property belonging to deceased persons. If there be corruption, if there be ignorance, if there be imbecility, it is the community who suffer.

The delegate from West Feliciana seems to think that the functions heretofore assigned to parish judges, ought not to be committed to judges of the district courts. As far as ministerial duties are concerned, I concur in opinion with him. These duties ought to be assigned to no judge; be he parish judge or district judge. There is another advantage resulting from confiding those functions to ministerial officers. It will conduce to greater economy, for these services being no longer performed by a judge, less will be asked, and less will be expected to be paid. The practice of allowing judges of drawing their salaries from fees has had a most unfortunate result. It has placed temptations before them, and has given rise to public suspicion. There are I readily admit, some that have held on their integrity, and were prepared to meet the most rigid scrutiny. But others, whether truly or not I do not pretend to determine, have been accused of extortion and pillage. Here is another

reason why we should make a thorough reform. As for the objection taken against the exception made in favor of the city, I have but one single remark to make. It must be obvious that in a large commercial city, a city that has immense relations both at home and abroad, which attracts a large share of foreign litigation, must have adequate means provided for the administration of justice. As for the separation of the judicial from the ministerial functions, I may say that it is accomplished in New Orleans. The clerks take all the initiatory steps, and the judges confine themselves to pronouncing upon the law.

Mr. Brent said that he concurred in the remares of the delegate from New Orleans (Mr. Benjamin) and that he dissented altogether from the ideas and opinions expressed by the delegate from West Feliciana, (Mr. Ratliff.) He could never consent to leave the organization of the courts of justice to the mercy of the legislature. We have organized the legislative and executive departments, and it is our duty to establish the main features of the judiciary department—the details may be left to the legislature. The delegate from West Feliciana confounds our jurisprudence with the organization of the judiciary. He seems to think that without the parish courts it will be impossible to protect the rights of married women and minors. It is not to be presumed that we are to abolish one system without supplying another that will answer the same purpose, and protect the same interests. The gentleman asks how we are to supply that deficiency? What functionary is to perform the duties heretofore discharged by the parish judges? The duties of a probate judge are either ministerial or judicial. The project of the majority of the committee, and which was unanimously concurred in as far as this point was involved, as well by the minority as by the majority, recommended that the ministerial offices should be separated from the judicial offices, and that those duties purely judicial should be confided to the judiciary. It was not intended to derange the system of our laws in that respect. The desire was that the parish judge system should be abolished. What were the parish judges in fact, under our present system? They were perfect factotums. Officers who might perform the ceremony of marriage for your children, protest your promissory notes, make your last will and testament, and cry your horse or sell your household furniture at public vendue. The design was to divide the multifarious functions appertaining to that single officer. It was deemed the best course to establish judges whose functions should be restricted to judicial duties alone. The district judge could exercise probate jurisdiction as far as matters were involved that were purely judicial. All other duties that were ministerial, could be assigned to some officer appoin ed for that purpose—for instance, a surrogate or register of wills. This would not only result in a saving of the public money, but the puritp of the judicial ermine would be better sustained. The delegate from West Feliciana has told us that the parish judge system has worked well, and that we should not abolish it until we are satisfied that we can provide a better system. I take issue with the gentleman an the question of fact. I deny that it has worked well. He has spoken of an eulogium pronounced upon it by a distinguished individual. Has that individual resided among us and felt the appression and extortion of the system? Had he seen its practical workings—that it levied annually from widows and orphans a tax of some one huddred thousand or one hundred and fifty thousand dollars—that it pillaged and fleeced and plundered the weak and the helpless, instead of eulogizing it, he would have poured out his bitterest and most unsparing denunciations against. We have been told to leave the discretion with the legislature to continue or abolish the system as they please. Why it is already the offspring of the legislature and if we permit the discretion to be legalized in that body, we may rest assured that it will be fastened upon us throughout all time to come. It will be perpetuated as surely as the sun will rise to-morrow. The gentleman spoke ef expenses. He, is according to his own account a great lover of harmony. He calls himself the guardian of the public treasury:

Mr. Ratliff: I would set the gentleman right. It is others that have called me the guardian of the public treasury.

Mr. Brent: The gentleman is a great lover of economy, a great stickler for economy; he has frequently called himself the

guardian of the public treasury. Let us examine a few frets, and let us see what would be the difference in expense between his favorite parish judge system and the system which it is now proposed to organize. We have now forty-five parish judges, and placing them at an average salary of three thousand dollars a piece, which is below the estimate, we find that the total amount paid to these judges is one hundred and thirty-five thousand dollars. This is a mederate calculation, and I think it far below the mark. We have then ten district judges, to whom we pay twenty-five thousand dollars annually. We may then say that we pay for the inferior judges one hundred and sixty-thousand dollars. I will venture to say that there is no State in the Union that pays as large an amount of money for her judiciary. There is no State that pays more than from eighty thoesand to ninety thousand dollars, including all expenses. Here we pay one hundred and sixty thousand dollars to our inferior judges alone. How much would we have to pay vnder the proposed system? We would have but one set of judges and those salaried officers, not more than eighteen, for I think that with that number we could have the whole judicial busines of the State well attended to. They would be competent to transact all the public business. Allowing four thousand five hundred dollars for the salaries of these eighteen judges, and deducting that amount from what we now pay the parish and district judges, and we have remaining one hundred and twenty-five thousand dollars. This would be saved to the people, and since the gentleman is so great a lover of economy. But there are other important advantages to be derived from the system proposed, which were dilated upon this morning by the delegate from New Orleans, (Mr. Benjamin.) I think with that delegate that grert confusion is the result of the conflicting jurisdictipn which now prevails. There should be but one court to apply the laws where individuals would be certain to obtain redress—where technicalities would be disregarded, and suits may be decided upon their merits. This is with me a most important consideration. I shall vote against striking out, because I am willing that the legislature should have the power to establish such courts as the peculiar wants of the city may hereafter require.

Mr. Taylor of Assumption, said that this was one of the most important subjects that had yet engaged the attention of this body. Gentlemen have said that it was circumscribed to narrow limits. I do not agree with them; I consider that it embraces the wisest scope. Before entering into the discussion, and attempting to show the fallacy of the whole proposition, I will beg the indulgence of the Convention, to refer to some of the arguments that fell from the delegate from New Orleans (Mr. Conrad). What is the object of the proposition? We are told that it is to effect a reform; a reform in what? A reform in the administration of successions. I am as anxious as any individual on this floor, that such a reform should be effected. But I must acknowlege that I am more solicitous about things than names. The minds of gentlemen have been filled with phantoms by the fear of reform, which has suddenly attacked them; and they now confound the name of parish judge, with the abuses growing out of our laws.

They tell us we should adopt their proposed system, as a cure for existing evils. It will, says they, rid us of them, because it will rid us of parish judges. According to one of the delegates (Mr. Conrad) however, this very system is now and has been for years, established in this city. Has it removed abuses here? No, sir. We are told by them that they still exist; and I believe there is no portion of the State where they are more numerous and flagrant. These abuses have continued to exist for years under the operation of the proposed system; and though this fact is notorious, and admitted, yet gentlemen, in a phrenzy of indignation, still cry out abolish parish judges. Why, sir, if they are abolished, will that effect a reform in the city of New Orleans? Not at all. There is no parish judge there. It is true there is a judge who is known as the judge of the parish court; but he is entrusted with no functions similar to those discharged by country parish judges. To effect a reform, we must first know the cause of abuse. Nothing is more certain than that the abuses complained of in the city, do not depend on the existence of what is called the parish judge system. To what then, we are com-

pelled to enquire, are they to be attributed? The answer is obvious to all who have examined the subject with any care. They are the result of vices in our legislation. It is not because the city of New Orleans has a probate court, for I defy any one to point out any country in the civilized world, where an officer having similar functions, is not to be found; the thing exists, although the name may differ.

The delegate from Rapides (Mr. Brent) has alluded to an officer known to the common law as the surrogate. Now, what are the functions of the surrogate? I have been familiar from childhood with the action of that officer, and I can with confidence assert that the surrogate is nothing more nor less than a judge of a court of probates. If the crying abuses do exist, about which we have heard so much, it is not because we have a judicial system varying so much from that of the other States, so far as probate business is concerned, but because a portion of our laws violate correct principles. The chairman of the judiciary committee (Mr. Grymes) in the remarks he made, observed that there was another section which was necessary to put a stop to the existing abuses. It seems then, that it is not the change of system which is to arrest them, but a provision depriving the judges of the money patronage! The delegate referred to section twelve, which prohibits judges from making allowances to any other than ministerial officers of their courts. If this provision be adopted, it will go far towards ameding the evils in question. We have been told that there is an organized system of plunder carried on in our courts, under cover of the judicial authoritp; and that the property of minors and of absent persons is preyed on, and consumed in the course of legal proceedings had in our courts. I have heard that this occurs too often in the city, and in some of the parishes in other portions of the State; in lower Louisiana such a perversion of justice has never come under my knowledge.

I have had some experience in the profession of the law; I am, it is true, no longer a practitioner, but when I was at the bar I had ample means of obtaining information on the subject; I enjoyed as large a practice, and one extending through as many parishes, as any member of the profession; and I can assert before God, that I never knew a case in which a minor or an absent person was plundered by a parish judge. If they have been guilty of the enormities charged on them in other quarters of the State; if the estates of minors and absent persons have been swallowed up by them and their creatures, it is because society has neglected its most important duty. The voice of the community has been silent; public sentiment has been dead. And when that is the case, no matter what may be the organization of our courts, abuses will accumulate, and the most monstrous wrongs will be perpetrated with the most perfect impunity.

I have always been an advocate for reform in the administration of successions, and of the estates of absent persons; and I would willingly join in the adoption of measures which would put a stop to this species of legal robbery. I have already alluded to a most fruitful source of their abusus, I refer to the power possessed by judges, of making allowances to all the persons concerned in the management of estates under judicial administration. The allowances for attornies to represent absent heirs; the charges for attornies of curators and executors; and their representing absent creditors, &c., are in many instances entirely disproportioned to the services rendered by them. Executors, administrators, curators and syndics, &c., have no interest in contesting these claims, and when they are not contested they are allowed of course. This is a radical defect; judges are authorized to make them allowances, an in too many instances it happens that estates are swallowed up by them. It is possiale that some times judges assent to exorbitant charges for the gratification of favorites; but it is of infinitely more frequent occurrence that the allowance of them is the result of collusion between those intrusted by law with the management of estates and the various persons employed by them.

The power to make these allowances is the principal source of the mischief, It is that which fritters away the inheritance of the successors of the dead, and the funds which should be sacred to the creditors of the estate. If this can happen when the heirs and creditors are present, it must happen to a greater extent when they are ab-

sent. Are we to change the names of things, and under a new name to be subjected to the same abuses? Are we to abolish the parish courts for no other purpose than to transfer their jurisdiction to the districts courts? The chairman of the committee (Mr. Grymes) has told us that we could do that by a single line. But is the destruction of one court to obviate the evils which are equally as incident to the action of another? Will not the district judges be exposed to the same temptations, and be subject to the same influences? Will they not be as likely to abuse their money patronage as the proscribed judges? Will they not gratify favorites, and make allowances out of money under their control? If it be a fact, that this vaunted system is in operation in New Orleans, in the name of God, with what propriety can we be called upon to extend it to the country? To destroy one set of courts, and to establish another set of courts liable to the very same abuses! We are told that these evils are of a most outrageous character, and this is the remedy which is proposed!

"The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the city of New Orleans as the legislature may from time to time direct."

Now, gentlemen say they will vote against striking out the words "the city of New Orleans," because, forsooth, the system in the country will be identical with the system in the city; and yet the legislature is to be vested, so far as the city is concerned, with the very same power which they so much deprecate for the country. They have voluntarily declared against the abuse of power by the legislature, should it be permitted to create courts, and with a strange inconsistency they abandon the principle in favor of the city! We may always gather wisdom from experience. This power has hitherto been vested in the legislature, and when has it been abused? We have had the same courts which now exist in the country for thirty-two years, without any change, unless the creation of two or three district courts in the north-western portion of the State, when they became necessary in consequence of the rapid increase in population. No new courts have been established in the country, and the power vested in the legislature, if it has been abused at all, has only been abused within the limits of the city. Some fifteen or twenty years ago, I have been told, a judicial office was created for the mere purpose of giving a place to a person well known at that time and since in the political history of Louisiana. Subsequently, the parish judge in the city was divested of his probate jurisdiction, and another court created, in which it was vested. Since then, we have had the commercial court created. The city then is the only spot where the power has been exercised and abused, and yet gentlemen desire to have that power perpetuated for the city! The city is to be an exception. The legislature is to have no power to establish courts in the country, no matter what may be the exigency, but they may continue to exercise that power for the city, although there alone it has, as yet, been abused.

If the words in question are struck out, will the city be deprived of the means of having her courts re-organized, or their number increased by the legislature, when experience shall demonstrate the necessity for some modifications or changes? Not at all! She will stand in precisely the same situation that she did before. The legislature are competent to act in her behalf, and will continue to be so. The power will be unlimited, to create as many courts for the city as may be deemed expedient. It is only in reference to the country, that it will produce any effect. If the words be struck out, the same power will then exist for the country; and if not, no matter what changes may take place, she will be restricted to the same courts throughout all time.

If it be impolitic to vest the power in the legislature to create courts in the country, it cannot be politic to have the power to create them in the city. If the consequences of the exercise of that power are detrimental, it ought certainly to be withdrawn altogether. But if the power is to be retained by the legislature, to provide for future exigencies in the city, the same arguments that establish the propriety of that course in relation to the city, ought to be conclusive with respect to the country. We are not a stationary people. We are making rapid advances. We may have

cities in the interior. We may have a manufacturing population. Where the God of heaven has scattered minerals with a prodigal hand, there will man be found to employ those resources. There are immense beds of coal in Louisiana; they must be put to some use, and no doubt one day they will be made as available to industry as the coal mines of Pennsylvania. What right have we to deprive the country of such facilities in the administration of justice, as may hereafter become indispensable? I mean, what right have we to do this, in principle?

But to pass to another point. Let us look at the details. Gentlemen tell us that we shall get rid of an enormous expense in the administration of successions. I am amazed at this declaration. Have we not the city of New Orleans before our eyes? How are we to get rid of these expenses by abolishing the parish judge system? What sir, because you destroy the name, are you to get rid of the abuses? Every delegate except one (Mr. Benjamin) who has spoken upon this subject, has been staggered by the argument that the duties now performed by judges of the courts of probate, would have to be transferred to other officers. To whom are they to be transferred? This is a question of great difficulty to those that are for overthrowing the system. To what other functionaries will you transfer those duties? To the surrogate, says one. That functionary has no existence in our system. To the clerks of the courts, says another. If you do, will you get rid of the expense? Why, the same fees will be exacted; the same duties will be performed; the petition will have to be filed, and the same fee will be charged for filing it; the order will have to be given, and if a sale be made it will be by an auctioneer, and he will be entitled to his commission. Where is the economy of which we have heard so much? where is the prodigious saving made? The gentleman from New Orleans (Mr. Conrad) amused himself by describing the multiformed duties of the parish judge, by assimilating him to that legal personage, John Stiles. He said that if an inventory had to be taken, it had to be done by John Stiles. If a family meeting were ordered it was before John Stiles; and if a sale were made, it was again John Stiles who officiated. These various duties may not be performed by one John Stiles, but what is the difference, as to the expense, whether that individual officiate, or several others. It comes to the same thing in the end. If you transfer all the duties to clerks of courts, which are now performed by the parish judge, *ex-officio*, does it not amount to the same thing? Is it not still John Stiles the clerk, who acts, instead of John Stiles, the parish judge? It is confounding the name with the thing, to pretend that there is any reform in this.

"A rose by any other name would smell as sweet," says the delegate from Orleans, (Mr. Conrad.) The quotation was not very appropriate in his argument. You may change the names, but I imagine the thing will still be the same, though he seems of a different opinion, his quotation to the contrary notwithstanding.

The delegate from Rapides (Mr. Brent) advocates the change because he says it will result in a great saving of money to the State; and he figured it up in his own way, to show that there will be a saving of one hundred thousand dollars, if we adopt his system. I have also taken the trouble to prepare some memoranda, which I will submit as showing a different result. But let us see how the gentleman has arrived at his conclusions. He estimates three thousand dollars per annum for each judge, and I imagine that this estimate is not far wrong. There are forty-five parishes in the State, and to avoid an overestimate, instead of the sum of one hundred and thirty-five thousand, he assumed one hundred thousand dollars as the amount they annually receive, and then asserts that by striking out the name of parish judge from the list of judicial functionaries, this sum of one hundred thousand dollars will be saved to the people. But is this so? Will the mere erasure of the name of parish judge from our statute books put an end to the payment of fees in legal proceedings in relation to successions? Will there be no more successions opened—no wills admitted to probate—no executors, curators, trustees or administrators appointed? Will there be no more inventories made—no more property belonging to successions sold—no more partitions effected, accounts rendered and tableaus of distribution made? Why sir, these things, and many others relative to the administration

and settlement of successions, must be done. They have heretofore been done in the country, under the authority of the parish judge, and certain specified fees allowed by them. You get rid of the name of the officer, but not of his functions. The functions may be divided; they may be given to clerks of courts, or divided between notaries, auctioneers, clerks and registers of wills or surrogates, but the fees must be paid. There will be some officer to do the same acts, and of course authorised to charge the same fees. And then this famous reform will have destroyed a name without in any manner touching existing abuses. And in consequence of this wonderful change, we are to have eight additional district judges with what gentlemen term liberal salaries. Will not the State then be burdened with these additional salaries? It will, sir; and this is the grand result of this great reform, this boasted economy. But this is not all. If the legislature parcels out the duties of our present parish judges among different officers; and this may happen if it is as much shocked at the idea of accumulating various duties in one office as some members of this body. We shall have several officers in place of one; and what then will be the result? Why, they must all live. One who serves the altar must live by the altar; and, as in many of our parishes the business is inconsiderable, the starving officers would, by their hungry clamor, be continually stimulating your legislatures to augment their fees. And, sir, in the end they would succeed, for good fees would be given with a view to secure good officers.

But there is another reason which operates on my mind, and if no other existed it would be sufficient to deter me from aiding to effect this sweeping change. If we destroy an entire class of officers, whose duties were now so multiplied and important as those of the parish judges, our jurisprudence must be changed before the new system goes into effect, or we shall be involved in inextricable confusion. Why, sir, without it, a stop would not only be put to the administration of successions, but there will be no persons authorized to do acts absolutely essential to the motion of the machinery of government. They preside at elections at some polls, and appoint the commissioners who preside at others—they make the returns of the result of our elections. If they are struck out of existence without legislative preparation, it is impossible to foretell the difficulties that may grow out of it. But gentlemen say it will be very easy for the legislature to make the necessary changes. That may be. But common prudence and common sense require that this should be done before the new system goes into effect. Why, sir, the article reported contains another section, which makes it imperative on the governor to organize the new judiciary as soon as the new constitution goes into effect. Gentlemen have determined to tear down and leave to others to build up. They distrust the legislature so much that they will not permit them to determine when the change of system shall take place; and yet they leave them to make those changes in our laws which are absolutely essential to make the change operative. Why, sir, from the language of gentlemen one would suppose that the legislature was a body at war with the people, and entirely independent of them, and that this house was the only place in which the people could be represented. And yet, previous legislatures have been, and succeeding ones will still be elected by the same citizens who have sent us here. I must say, that for one, I do not share in this distrust of that body. They will always represent the people: and in my opinion, to them, and them only, should the establishment of all courts of original jurisdiction be entirely left. If this be not done what will be our situation if the system adopted should work badly? Why, it cannot be changed, although the whole people should demand it, until after the lapse of years, for there must first be an amendment of the constitution. [Here Mr. Taylor particularized many difficulties and inconveniences which would inevitably follow the adoption of the proposed system, and then continued nearly as follows:]

I am opposed to taking the step contemplated with such rare complacency by many delegates, for another and very sufficient reason. It is not expected by the people. Sir, the question was not agitated by them. There were but two questions connected with the judiciary that were at all discussed before the people. One rela-

ted to the mode of appointing judges, and the other to the tenure of their offices. The most important of them by far, in my view, is that relative to the tenure of office. The contest was between those who wished to make the office of judge as it now is, permanent, and such as were disposed to limit it to a term of years. I have for a long time thought that limiting the judicial office to a short term of years, would put an end at once and forever to all the abuses which have heretofore grown out of the negligence or misconduct of our judges. As it is now, they are in fact, independent of all control, and it may happen that their interest may turn them aside from the path of duty, or indolence prevent their pursuing it. If the term, on the other hand be short, they are responsible directly to the people through their agents. If they fail to discharge their duties through indolence, the failure will be marked; and if they violate them through the love of gain or the spirit of favoriteism, the violations will be chronicled in the memories of the people and arrayed against them in the day of reckoning. If we adopt this principle, we shall have the highest assurance that can be afforded by men for the faithful discharge of the trusts confided to them. Their tenure of office will depend on their conduct, and the feelings of interest will strengthen the sense of duty. If this be done, we shall have done nearly all that we can do to elevate the bench, and preserve the purity of the judicial ermine. But this is not all that is to be done to cleanse the stream of justice. I repeat it, sir, the abuses which have been the subject of so much vehement declamation, are not the consequence of the organization of our courts. I do not mean to say that the judges are all blameless, and that none have prostituted their power for the gratification of favoritism, or the promotion of their own interests; but I do deliberately say this: such derelictions of duty are rare indeed compared with the infinite number of instances in which persons acting in a representative capacity have under color of law, devoured the substance of the stranger and the orphan. To effect a reform there must be legislation—wise—efficient legislation; and this cannot be expected of this body. You may abolish the office of parish judge if you will, but the abuses will remain, until the cause of them is removed by changes in your statute book, not in your constitution.

In conclusion, I will only say that I protest against the wholesale destruction now proposed to be made of a system, before it is known what is to succeed it; and that for one I will not join in taking a step which is clearly unnecessary at this time, and which if wrong, cannot be retraced.

Whereupon the Convention adjourned until five o'clock, p. m.

Wednesday Evening, April 16.

The Convention met pursuant to adjournment.

Mr. Marigny gave notice that he would move, on Friday morning, for the reconsideration of the rule which requires as many votes in favor of re-consideration as voted in favor of the original proposition.

The Convention resumed the consideration of section one of the report of the majority of the judiciary committee.

Mr. Lewis: I did not think that the simple motion under consideration would have brought up the whole subject of the judiciary for discussion. I had supposed that this debate would have arisen upon another section of the report, to which it more properly belongs. But as several gentlemen have already spoken upon the subject, and have gone very fully into the various matters involved in it, I trust I may be permitted, without trespassing too much upon the indulgence of the Convention, to offer my views upon it.

We have entered upon the discussion of what is familiarly known as the parish judge system. One of the designs attributed to its opponents is that of uprooting, abolishing, the whole system; and I confess that, for one, I am in favor of its entire abolition. (I do not mean northern abolition.)

I am aware that there is one principle that has always exercised great influence upon mankind. We look with distrust and suspicion upon innovation, and are disposed to submit to evils, merely because they have been transmitted to us by our forefathers. We are apt to be wedded to fallacies because they are sanctified by antiquity.

There is nothing like the parish judge

system to be found in any other State in the Union. The only system to which it may be assimilated is that of the Spanish alcaldés or commandants, that formerly governed in this country, in the name of his most catholic majesty. Those commandants were the political Caleb Quotems of their day. Their will was practically the only law of the land. The usual custom of those times was to apply to the alcaldè of the "arondissement," who redressed the wrongs complained of, or, too frequently, inflicted greater, according to the influence of the parties who came before him. Where the matter of dispute was too great for the action of the alcalde, the commandant administered justice in his own way.

When our present system of jurisprudence was first adopted, American principles had just been called into being, and were not then well understood by our public men. Many of the functions of the commandant were retained and engrafted upon our institutions, and the anomaly of the parish judge system was the natural result.

What are the functions of the parish judges? I do not argue this question with prejudice or passion, but shall urge considerations that are the results of my own experience, and of a comparison of the systems of other countries with our own.

The parish judge unites in his own person more functions than are attributed to any four different officers in any other of the States. He is *ex officio* almost every thing. Some of his multifarious attributes have, it is true, been withdrawn, in some of the parishes; but in others, I believe, they remain the same to the present time. The evils and inconveniences of this system have been so great, that relief has been sought for in partial legislation; hence we find that there are parishes separated only by a small rivulet, having institutions and local ordinances, differing as much from each other, as do the laws and institutions of the petty principalities of Germany. In some parishes, the parish judge is *ex officio* president of the police jury; in others he is not. In nearly all he is vested with criminal jurisdiction, and presides over the trial of offences committed by slaves. He is conservator of the peace, and as a justice of the peace may try a suit involving no more than six bits. He is *ex officio* judge of the court of probates, with unlimited jurisdiction as to amounts; a notary public, an auctioneer; in most of the parishes, recorder of mortgages, recorder of conveyances, and besides all these he is a sort of a priest, for he issues licences and celebrates marriages. He is invested with almost all the powers of government in his parish, and combines them in his own person. His mental and physical powers are taxed in every way, and he has need of the fabled powers of an Atlas to sustain their weight. Besides all these duties, he is *ex officio* guardian of minors, bound to see that they are suitably provided with tutors, guardian of the rights of insane persons, and others incapable of taking care of themselves, and their estates. A mass of duties too much for any one man, and which no one man is physically capable of performing well.

These are some of the duties which were assigned to the Spanish commandants, and which have been transferred to our parish judges, as, in some sort, their successors.

Such a system might answer the purposes intended by it, in a country with but few inhabitants, where men lived in an almost primitive state of society, and where one reverend gentleman could take upon himself, in reference to the rest of the community, the patriarchal or domestic duty of governing them as a "good father of a family;" and hence we find so frequently recurring in our civil code, the expression "a good father of a family."

This state of things seems to be based upon the patriarchal government that existed before the flood; and which, however well it may have suited the antediluvians, does not seem to me to be suitable to the present enlightened age of the world. It is said that we live in an age of progression—and it seems to me that we have made sufficient advancement to be able to discover what effect the present system has had upon the community, and to form a tolerable estimate of the probable effects of that which we propose as a substitute for it. We are not to be alarmed by the bugbear of innovation; nor by the argument of the gentleman from Lafourche, (Mr. Taylor) that we are pulling down a venerable institution. It is venerable, if you will, by

its age, but whence did it have its origin? In despotism. It is a remnant of the old Spanish system. Our object is to provide against abuses that we think liable to result from this system, and to secure the benefit of a liberal and enlightened judiciary.

The gentleman (Mr. Taylor) says that we talk of abuses, but offer no remedy—that we are only changing the name, but not the thing. His argument, to my mind, was more specious that sound; it was very ingenious, and from the known candor of that gentleman, I doubt not it emanated from his convictions, and was satisfactory to his judgment; but it failed to convince me. I am far from concurring with him in that opinion.

I agree with him that legislation will necessarily carry out the details of the new system, proposed for our adoption; but this may be said of every radical change in our organic law; and unless we strike a blow at the root of the old system, and eradicate it by constitutional provisions, I fear the reform will never be effected. It requires legislative action to give force and efficacy to most of the provisions of the constitution, and to set the wheels of government in motion.

The establishing other courts besides a supreme court, in the constitution of a State, is no novelty; and I see no good reason why district courts should not be as well created by the constitution, as a supreme court.

In the course of my professional career, I have aided in the settlement of more than fifty successions, some large and some small in amount. In the city of New Orleans I had personal knowledge of the charges upon the settlement of but one estate, and I looked into that because it was the estate of one of my uncles, who died in this city, of the yellow fever.

He returned to this city from Mexico (on his way to Missouri, where he resided,) and died, leaving deposited in one of the city banks about three thousand dollars, in gold and silver. For the settlement of this estate about eleven hundred dollars were consumed in law charges and expenses; or one-third of the amount. I went to the office to look at these papers, accompanied by the honorable delegate from Jefferson, now attorney general of the State, who showed them to me, and to whom I now appeal to correct me if I am wrong in my statement. But I may be told that these extravagant expenses form no part of the system. To this I reply, that any system that leads to such extravagant expenses in the settlement of estates must be wrong. There is no system which, in my opinion, is susceptible of greater abuses than the one under consideration.

When a person dies, the seals must be affixed to his effects. These seals may not be removed without the authority of the parish judge, and he very generally goes himself to perfom that duty; and so he goes on, taking all the steps required, until the final settlement of the estate, for each of which heavy fees are allowed by law.

The gentleman from New Orleans (Mr. Conrad) has indulged in some merriment in describing the attributes of the parish judge under the simile of that legal factotum, John Stiles. These attributes are melancholy facts. There is no system with which I am acquainted, that is half so expensive as our probate system, except the English court of chancery.

It is, unfortunately, made by our laws, the interest of the parish judge to create as much expense as possible in the settlement of successions. The system tempts them to do wrong at almost every step; and though I can, and do bear testimony to the fact, that, so far as my experience goes, our parish judges have successfully resisted this temptation; have been honest in spite of the system and maintained their integrity; still I consider no system good which offers temptation to the violation of duty.

A succession is opened and a contest arises amongst the heirs as to whether it shall be divided in kind or by a sale at auction. The judge must decide this contest, and as the division by a sale at auction will be more profitable to the judge (who as auctioneer makes the sale,) than any other mode, is he not tempted to incline to his own interest and so decide? Again, do the heirs disagree amongst themselves as to the mode of partition, and ask the judge's advice, will he not find reasons "thick as blackberries" in favor of a sale? Such is the natural tendencies of the principle and the temptation offered in our present system; and with the purest intentions and most upright designs, it is possible to im-

agine we are all more or less influenced by our interest in the conclusions to which our most enlightened judgments can arrive. In the language of an old poet—

"Mankind are unco weak,
And little to be trusted;
If self the wavering balance shake,
It's rarely right adjusted."

Entertaining these views, I feel bound to afford my aid in pulling down the present system, and substituting in its place one that I believe will not offer the temptations to wrong that I find or think I find, in the former.

Mr. Marigny: It would seem from what we have heard in this discussion that the Convention have assembled for the purpose of impeaching all the parish judges, and yet there is nothing that is more dissimilar to the mission we have received from the people, and I may dare add, with the promises we have made when we were upon the hustings. I am induced to believe that the honorable delegate from St. Landry participated in making these promises. How can we imagine that after having engaged to make no other changes in the constitution than those which the people desired, and which they indicated in precise terms through the legislature; how, I would ask, can we now assume the unlimited power of dictators. How can we imagine that we combine the concentrated wisdom of the whole State—that we are the Areopagus, and that we are elevated above all future deliberative bodies that may ever meet? The constitution of 1812 places the judiciary power of the State in from three to five judges of the supreme court, and in such inferior tribunals as the legislature might think proper to establish. This portion of the old constitution ought to have been left intact, inasmuch as the people have never complained, and it was not embraced in that essential reforms which were contemplated by the law, in virtue of which we are here convened. How does it happen that upon your own responsibility you are about to overthrow the existing system and to create, all through the State, with the exception of the city, district courts, and to abolish parish courts. I do not contend that it is proper to accumulate so many labors in the hands of the judge of the parish courts. All that I assume is this, that if the reforms in the judiciary system be necessary, about which we have heard so much, the legislature is better adapted to effect such changes as may be desired than we are. The action of this body is counterbalanced by no other power. It is generally composed of from sixty to fifty wills, whereas the action of the legislature, besides being a body more numerous, is checked by the action of the senate, and by the action of the executive branch, that has a negative upon it's proceedings. We must be animated, I repeat again by a strong spirit of presumption, to imagine that we are more skilled, and that we shall succeed better, than an assembly which will be composed of men our equals in every respect, and which will count among its number, citizens highly accomplished in political matters, and which we are led to expect from the rapid progress made by the young men of the present day. Let us not deceive ourselves. It does not become a constituent body like this to interfere in matters of pure legislation. If that was the design this body ought to be composed of two branches, in order that one branch might operate as a salutary check upon the other. If the national convention of France had been composed of two branches, one acting as a counterpoise to the other, Louis XVI would not have had his head brought to the block. Again, had the cortes in Spain been composed of two bodies, the civil war that has distracted and divided that country would have been averted. There never has been a dictator but where the will of one man has reigned supreme. But what are the arguments adduced by the honorable delegate from St. Landry, (Mr. Lewis) to inspire us with the fell spirit of destruction to eradicate institutions with which our people have become familiar. We have been told that there is no such thing as a court of probates, possessing the same powers as our court of probate to be found in the union. And what does that prove? That in the State of Louisiana we regulate the rights of minors, and those claiming inheritances, with greater certainty and precision than elsewhere. In the other States the father has absolute control over his children, because he is the absolute master of his for-

tune, of which he may deprive them at pleasure. But in Louisiana we have forced heirs. Suppose this peculiarity did not exist, and that a father might donate his property to whom he pleased, who would be the losers by that disposition in our system? A considerable number of lawyers, not even excepting the honorable delegate from St. Landry, (Mr. Lewis) draw a very profitable income from that accident in our legislation. I have no doubt that if it was contemplated to destroy a system which was adverse to the interest of the gentlemen of the bar, their organ would be found on the side of the opposition, for he himself has confessed that the most honest heart and the purest intelligence cannot resist the necessity of defending their interest.

What amused me in the argument of the gentleman (Mr. Lewis), was his attempt to establish the identity of the parish judges with the Spanish commandantes. He judges, if I may use a familiar expression, of a book by looking at the preface, and runs on with his remarkable volubility, from criticism to criticism, as if there were no government where the writ of *habeas corpus* was not to be found. If he had have given himself the trouble to examine the mode of governing of those commandantes who appear to have fallen so much under his displeasure, he would have seen that two among them, Michael Cantrelle and Manuel Andry, at the transfer of the government of Louisiana, in delivering over the archives of their respective offices to governor Claiborne, made the following striking declaration:—"It is now thirty years since we have been the commandantes of our respective districts, and we have never had a single case to decide."

I would ask the honorable delegate from St. Landry, if he can point to any place in the United States where as much could be said? He appears to think that he has discovered a most scandalous example, when he cites to us as a fact: that the parish judge of St. Landry was in the receipt for a number of years of a salary of twelve thousand dollars per annum. But what does that prove? It proves that there is a greater amount of legal business in that parish than there is in some others, and that if the fees which contributed this amount had not been solely received by the judge, they would have been distributed, and paid by the parties to a clerk of the court, to a notary and to an auctioneer. It is not, then, in the interest of the public that these salaries are paraded before us, but evidently in the interest of other offices, other than the parish judges. Where is the difference to the public whether the fees of office for probate business, is paid to the parish judges or to a half a dozen other officers? It is a matter of supreme indifference. I think I can discover what is the true cause of attack upon the parish court system. The parish judge gives advice gratis, and that does not answer so well for the gentlemen of the bar. He causes petitions to be written by his clerk, and estates are settled without the intervention of a lawyer, and that is to them a very objectionable feature of the system. They infer, with their usual sagacity, that that now will cost three hundred dollars in the settlement of successions, will, if the scheme advocated by the delegate from St. Landry prevail, will cost six hundred dollars, and as they expect to get a good slice, they find the system to be most admirable; and is it to effect such a change as this that one hundred thousand dollars have been drawn from the public treasury, to maintain this body? Let gentlemen beware; the sentiments of the people have undergone a revulsion. The city of New Orleans has been reprobated as a place of political pestilence, which could not be approached within sixty miles by the inhabitants of the other portion of the State, without exercising a deleterious influence upon them. It is not unlikely that this unjust reproach will cause three-fourths of the people of the city to vote against the constitution; and if you now destroy the judiciary system, which has been endeared to the people of lower Louisiana, and with which they are familiar, you may induce them to vote in mass against the adoption of the new constitution. Is it to defeat the object for which we have been assembled? or to carry it out with fidelity that we have assumed the responsibility of representing the wishes of our fellow citizens?

If you are resolved to destroy your own work, you may begin by destroying the parish courts. But if you are sincerely desirous to make a constitution which will be acceptable to the people, respect their cus-

toms and their habits, for there is in these nothing that is wrong or reprehensible; and it does not become you to interfere with any of their privileges; as far as I am concerned, I feel that I have discharged my duty. It is not my fault if a disposition has been manifested to abandon the true principles of democracy, with the view of satisfying the insatiable desire of obtaining political power. In attempting to establish a system instead of laying a basis, we have encroached upon the rights of the legislature; we have attempted to deprive them of the means of responding to the wishes of the people, and we have consecrated a despotism in the empire of liberty. You are about to fail in carrying out the wishes of the people in the presence of four hundred thousand of your fellow citizens. Again I repeat, beware! That formidable mass may annihilate you by their weight, and may reduce you and your work to the utmost insignificance.

But we are told that the people are disgusted with the parish court system. This is a mistake. The people are not dissatisfied with the system itself; it is their representatives who are moved by the restless spirit of innovation. How are you to supply the place of those officers who have resided in the midst of their several parishes and have obtained the public confidence?—who are the depositories of the transactions of the people, and of the fortunes which have been accumulated—who have in their hands a large amount of the inheritance of minors? By a district judge—an itenerant magistrate who may be under the influence of indifference or prejudice? To convince you that I have neither the subtle science of the lawyer nor the elocution of an accomplished orator, but I have a profound sentiment of my duty, I submit to you my views with the modesty which becomes a man whose experience has demonstrated to him that it is impossible to control the will of the people. You may carry your point here. You may abuse your your power if you choose, but remember that the people will do me the justice of believing that I have not the vanity of imagining myself more capable than others in whom they may hereafter confide their authority, and that I have not attempted to impose upon them a system of legislation in the constitution. Methinks I see those parishes against whom you are about to pass the sentence of death, gathering their strength to overwhelm you! Their voice alone will reduce you to silence, and banished by the popular will from the councils of the State, you will have nothing to do but to read your bibles and repent!

Mr. Soule desired to say a few words before the proposition of the gentleman from West Feliciana (Mr. Ratliff) was put to vote. He had examined the question in all its bearings, and there was not a principle that had been enunciated since the opening of this debate in which he did not concur, so far as it was designed to introduce in the judiciary a system of uniformity, and to reform those abuses which had become excressences upon the present system. Names are with me but matters of little consideration, it is the results which claim my attention; and I would inquire, how are we to obtain the object which is so generally desired? The response to this question depends upon an impartial examination of all the facts. I have carefully pondered the subject, and it strikes me that the conclusion which has been urged in the course of this discussion is true: that to secure uniformity and simplicity, the judiciary should embrace but two tribunals—one of original and the other of appellate jurisdiction, to-wit: a supreme court and an inferior court, to which may be given indifferently the name of district court or parish court. If the majority of the judiciary committee could only convince me that the administration of justice would be as efficient and as convenient by the establishment of district courts, embracing several parishes, instead of the appointment of a separate court in each parish, I would at once accede to their plan. But I am apprehensive that it will not attain that result, unless perhaps the clerks of the courts are invested with other than purely ministerial powers.

I think that the parish court system, with proper modifications, would be preferable. It has besides, the advantage of being identified with the habits of the people. It has been in operation ever since the organization of our government, and it will be found difficult to destroy the predelictions which it has inspired. It would, therefore, be more expedient to retain the parish courts, giving to them the jurisdiction which is

proposed to be given to the district courts, and depriving them of those ministerial functions which do not accord with the dignity of the judicial office, and which places the judge in the singular attitude of deciding upon his own acts. Heretofore the functions of parish judges have by a strange contradiction, presented the anomaly of restriction on the one hand, and of unlimited power on the other. In the one instance their jurisdiction extended without limit, and that in a matter deeply affecting the interest of individuals and families. On the other hand, they are limited, in ordinary cases, to a jurisdiction of three hundred dollars. Let us preserve the probate jurisdiction; and in reference to the ordinary jurisdiction, let it be as unlimited as the jurisdiction proposed to be given to the district court. With this simple change, we shall assure to each parish a court, where all matters in litigation can be decided promptly and conveniently. I have experienced, as wetl as my colleagues who have spoken in favor of the adoption of the report of the majority of the committee, the expediency of uniformity and simplicity in the organization of our judiciary; and I think with the committee, that the best means of effecting that object is to establish but two courts; the one of original, and the other of appellate jurisdiction. I prefer the conservation of the parish courts with some suitable changes and modifications, better to adapt them to the end for which they were created. Moreover, it must be borne in mind, that the people are familiar with that system, and that its destruction may cause great inconvenience, and another advantage will result from retaining the old system. It will necessitate fewer changes; whereas, if we adopt the present scheme, we shall have to make great and numerous changes in the civil code and code of practice. If we adopt the former, it will be scarcely necessary to make any changes in the laws themselves, and we shall have an administration which is familiar to the people. I will conclude by observing, that I did not expect to engage in the discussion this evening. These are my views, briefly expressed, and I shall take occasion to present the amendment which I shall now read, for the information of the house.

[Mr. Soulé here read the amendment referred to.]

Mr. Benjamin: It seems to be the sense of the house that there shall be but one set of inferior courts, whose jurisdictions shall be concurrent and universal, so that conflicting questions of jurisdiction will be settled forever. This coincidence of opinion convinces me that the defects in the present system are well understood. The subject has for some considerable time engaged my attention, and I proposed at one time to submit a plan for the reorganization of our judiciary system, embracing similar reforms. When I was a member of the legislature, I was precluded from doing this, from the precarious state of my health, having been unable to attend the sessions of the legislature until the close of the session. I attach but little importance to names, and it is with me a matter of no moment how you baptize your courts, provided that you organize them on just and proper principles. You may call them district courts, or parish courts, I care not! But I would suggest that there will be great difficulty in establishing these courts, so that one court may be allowed to each parish, exclusively. The salaries of the judges of the parish courts accrue principally from the fees they receive in the exercise of those functions, which are denominated ministerial. It is the parties interested in the settlement of successions, that contribute, for the most part, to the payment of the salaries of those officers. Now, if you take away from the judges, as is proposed, all ministerial functions, it becomes necessary for the State to allow them a fixed salary. It is proposed in the report of the majority of the judiciary committee, to establish eighteen judicial districts, and to allot to each, one judge. If we adopt the suggestion of my colleague (Mr. Soulé) we shall have forty-six judges in place of eighteen, besides those which may hereafter be appointed for the special courts that will be created for the city. These forty-eight judges will have to be compensated by a fixed salary, and the question arises, what will be a proper salary to each one of them? Shall it be uniform, or shall it be in proportion to the services rendered? If we say that the salaries shall be uniform, then we allow to the

judge who has little to do, as much as to the judge whose duties are arduous, and whose time is constantly engaged by the greater amount of litigation in the parish for which he may be appointed; and as three thousand dollars would be as little as we could allow to the latter, we would be imposing upon the State an annual debt of one hundred and forty-four thousand dollars. If we say that it shall be in proportion to the services rendered, it is true we reduce the expense, but we create heart-burnings and jealousies, and it may be considered that, by this system of gradation, a humiliating distinction is made between the relative pretensions of these officers; all this may create a great deal of dissatisfaction and difficulty, and it may be inferred that less solicitude is shown for the interest of small parishes than for large parishes. Such an attempt, it strikes me, would be highly inexpedient.

Wherever the effort has been made to obtain judges at small and inefficient salaries, it has most signally failed. The experiment was made in Massachusetts, and was attended with unfortunate results. The able and accomplished jurists on the bench at that time, gave in their resignations, and as lawyers above mediocrity could not be induced to accept the appointments, persons far below it had to be chosen. The consequence was great confusion and great detriment to the administration of justice; and the legislature of that State were compelled to retrace their steps. A similar attempt in Louisiana will be followed by like results, and it will be found impossible to place on the bench without a fair and reasonable compensation, men of commanding talents and strict integrity. Such a mistaken notion of economy will in the end cost the State more than the very highest salaries that could be allowed. It will destroy the confidence of the people in their judges. Divide the districts as far as it can be done equally, but do not destroy the independence of the judiciary by making it subservient to the economical calculations of the legislature.

There are but two points upon which there is a difference of opinion, and that is simply to determine upon the name to be given to the inferior courts, and whether each parish shall have one judge exclusively. As for the first point, I conceive it to be a matter of no moment; names signify nothing. As for the second, as I have had the honor to state, I think there are insuperable objections to it. It would entail a very heavy expense upon the State, and it would be difficult to fix the salaries upon a principle of equality which would be satisfactory. A provision, it is true, might be introduced that the parish should be charged with the salary of the judge, and this might obviate the latter inconvenience; but I do not believe that such a proposition would meet with favor from the majority of this body.

Whereupon, on motion, the Convention adjourned until to-morrow at 10 o'clock.

THURSDAY, April 17, 1845.

The Convention met pursuant to adjournment.

The honorable Mr. STEPHENS, at the request of the President, opened the proceedings with prayer.

Mr. DUNN gave notice that he would move for the reconsideration of the section relative to the lieutenant governor, in order to attach to the office the duty of superintendant of public schools.

The Convention then resumed the consideration of the

ORDER OF THE DAY.

Section one of the report of the majority of the committee upon the judiciary.

Mr. PRESTON said that the motion to strike out three words in the first section, hardly presented the question before the house. The discussion would more properly have come up in another place, but as gentlemen had taken the occasion to go into an exposition of their views, he would beg leave to make a few remarks which would be as brief as possible. The first section proposes to abolish the parish court system and to substitute district courts. The motion of the delegate from West Feliciana (Mr. Ratliff) was designed to counteract that object. The old constitution prescribed that there should be one supreme court, and directed the legislature to create such other inferior courts as they might deem proper for the dispatch of the public business. Experience has rendered it necessary to be more explicit. The delegate from New Orleans (Mr. Benjamin) has expressed what, in my opinion, is necessary to give simplicity and

vigor to the judiciary, with this exception, that I think it better to engraft the parish court system by remoddleing the judiciary, than to establish district courts. I concur with the gentleman from New Orleans, (Mr. Benjamin) that there should be but two courts. I do not include justices of the peace, because they are hardly to be called courts. A court of appeals and a court of original jurisdiction to establish the facts and the law. I am averse to having three or four courts; they will give rise to interminable questions of jurisdiction, which will produce great confusion and be ruinous to parties involved in litigation, and will only enure to the benefit of those who live upon the laws of the country. It is absurd to have so many courts; they are called for by no necessity. We have but one set of laws, and they are few and definite. By an act of the legislature the C. Code, and the Code of Practice, and the statutes of the State. are declared to be the only laws adopted for the administration of justice throughout the State. These laws are few and simple; the decisions of the supreme court are not laws themselves, but only interpretations of laws. The idea that the same man should, as judge, be competent to grant you relief because you addressed him as chancellor, which he could not have granted you as a common law judge; involved an absurdity. It was what I never could comprehend; and I concur with the delegate from New Orleans (Mr. Benjamin) that such unmeaning and mischievous distinctions, should be swept away from our judicial proceedings.

I consider that one of the great measures of reform, which will have a most salutary effect, is the limitation of the term of federal office to short terms; as long as the term of office was for life, reforms in the system could only be partial and inadequate. The superintendence exercised by judges upon sheriffs, clerks and others, subservient to them in authority, was most powerful; and the combination of these officers might prevent the election of any one to the legislature, who was disposed to cut down their fees, and make other essential reforms in the public interest. There is another system which I freely broached when I was a candidate for the Convention, in an adjoining city and parish, a parish which is supposed to be aristocratic, and to be wedded to old systems; I declared my unqualified and unequivocal preference for the election of judges by the people; and as I expressed that preference publicly and frequently during the canvass, I am bound to conclude that a majority were in favor of that mode of reform. There are two or three incidental matters of reform which have been recommended in the report of the majority, that ought to be adopted; and which, in my humble opinion, if abopted would obviate most of the objections to the parish judge system. One of these, and the principal, is that the judges should exercise no purely ministerial functions. The gentleman from New Orleans (Mr. Conrad) has alluded in an amusing manner to the multifarious duties of the parish judge. He might, in enumerating the various stations held by that officer, have gone farther, and have told us that in some instances to his thirteen other employments were added the presidency of a bank. But it is not in the multifarious functions of the parish judges that we are to seek for the evils which ezist in the system. The true policy would be to pay that officer a fixed salary, sufficient to remunerate him for his services and to give him a decent living, and to prescribe that he should perform all the duties properly belonging to the station, and which the public convenience might require. The great mode of reform, to my mind, is to take away the money patronage from the office, and to provide that the judge should no longer exact fees, so that he should not be exposed to the reproach of deciding his own case, what his own compensation should be, and to what extent he should accumulate the proceedings. This wrong has, together with the money patronage, thrown great discredit upon the system, and excited the general distrust in the public mind which prevails.

The gentleman from St. James (Mr. Lewis) had alluded to a particular case, which had almost slipped my memory, where eleven hundred dollars were paid in law charges, out of an amount of three thousand dollars. This is by no means an extraordinary case; there are far more cases in which more than one-third are paid out in law charges, than there are under that amount. It is this which throws discredit on the administration of justice,

and degrades the high character of its functions. But the evil, great as it is, is not restricted to persons and property, but it exercises a baneful influence upon the prosperity of the State; it prevents the tide of population from setting towards Louisiana, and diverts it to Texas, and to other places, As the gentleman from Ouachita (Mr. Downs) told us on another occasion, that while people were pouring in as thick as locusts above the line of Louisiana, on the Arkansaw side, below that line they were few and far between. A man comes to Louisiana and by great industry acquires a fortune, but by the reputation which the administration of justice, in the mode of sucbessions, has obtained, he becomes alarmed and fearful that, instead of his property descending to his heirs, it will be squandered and diverted in law charges. These apprehensions induce many persons to remoqe their property out of the Sjate which they have accumulated it in; and thus, instead of remaining to enrich the State, ann to swell her retources, to pay the taxes and to contribute to the general improvement, it is taken away, and the State is deprived of so much capital.

I have been accused of being a violent denouncer of courts. I confess that when I came here thirty years ago, a boy, having read Blackstone and other elementary writers, who have eulogized the purity of the judicial ermine, I was as great a believer that that ermine was as spotless as snow, as any one could possibly be. I was as great a stickler for the inviolability of the judicial functions, and was as ready to contend for the independence of the judicial tenure as any lawyer at the bar. I will refer, in illustration of what my feelings were about that period, to a circumstance that I have never before mentioned. I was clerk to a notary who could not indite an act. He was called upon to make the will of the lamented Governor Claiborne, whose name I mention with the greatest reverence, and for whom I have always entertained the highest respect, as a patriot and as a man. I went to his bed side and told him that I was the clerk of the notary, and had come as the substitute of the notary. At first he demurred to my replacing that officer, but when the circumstances were explained to him, he finally consented, and I attended upon him for two or three days, an hour each day, until the will was completed. He expressed his great aversion to the court of probates; and that thirty years ago! So strong, however, so high was my admiration for every thing savoring of the judiciary, that I actually modified his language, as far as I could, although it was equally as strong as the will of the late chief justice Mathews. I direct, said governor Claiborne, in his last will, that my executors shall take possession of my estate extra judicially, and I expressly direct that it shall in no manner be under the control of the court of probates; nor shall that court have any thing to do with the government of my children. That was thirty years ago! The delegate from St. Landry (Mr. Lewis) has alluded to the strong expressions of Judge Matthews, a judge of the supreme court, and familiar with the practice of the court of probates. He reprehended the interference of that court in the settlement of his estate. But these two cases are not the only instances in which similar feelings have been manifested. Several prudent citizens have entertained the same misgivings—some of them have removed their property out of the State, while others, in their last wills, have solemnly abjured the jurisdiction of the court of probates. Amongst others, I will mention the name of the late Colonel Shamburg, an old citizen of Louisiana. Instead of looking to the court of probates for protection to their property, and for the maintenance of the rights of their children, they have looked with horror and dismay upon those tribunals; and have given vent to their feelings when they were about to depart for another and, I trust, a better world.

The gentleman from West Feliciana (Mr. Ratliff) has spoken of legislative interference. Why, these evils have been felt for forty years. Other men have felt the same decided repugnance to the abuses of the system, as Governor Claiborne and Judge Matthews, but has any thing been done? Experience teaches us that the legislature are impotent to cure the evils, for if it could have been effected, it certainly would have been done during the last forty years. I have no faith in that remedy. We see the results before our eyes—we know whence they proceed, and we should lay the axe to the root of the evil. I do

not for one moment imagine that any of the judges are susceptible of corruption. I do not charge any such thing upon any of them. I believe them above it. But I do contend that this money patronage, which is peculiar to the State of Louisiana, exercises a most deleterious influence, and that the judges, without being aware of it, and perhaps without suspecting even the extent of the evil, unwittingly are made to contribute to a state of things which is truly a public calamity!

I recollect an instance some eight or ten years ago, of a drayman, who had acquired a large fortune, some one hundred thousand dollars, which he devised upon a condition, which was never accomplshed and which could never be accomplished. This was considered too good a bone to be left unpicked. His wlll was annulled; and upon what ground do you suppose? There were other grounds, but seriously the only essential ground by which the charity asylum were deprived of this liberal donation, was this, that the seal was parched by his thumb, instead of being parched with his watch seal! The supreme court confirmed this decision, but as a matter of course they could not let their decision stand upon so ridiculous a pretence, they assumed some other; but the only substantial case, was that which I have related. I repeat, I do not charge upon the judiciary a corruption of money, but a corruption of influence. The will of the late Stephen Henderson was annulled on the pretence, that it was abstruse, incomprehensible and impracticable! And yet, who could believe this, who knew Stephen Henderson; a practical man, of good, sound common sense. I should not be surprised that the immense estate of Mr. Mylne should ultimately be bankrupt. The estate of Nichlas Girod will be kept in the court of probates, until a large slice is taken from it!

But these things are not peculiar to this country; they occur in England, in boasted England, whose jurisprudence is deemed by many to be the quintesence of equity.

I have a boy now in my eye to whose father a legacy was left in 1797. The will was written in language as plain as that of Stephen Henderson. The father died without recovering it, and the son has not been more fortunate. I sent him to England; but the voyage was without any satisfactory result. A lawyer informed him that if he would pay him a fee he would undertake his case; and thus it is, that to obtain the prospect of redresss, expense must be incurred, which may in the end serve but to increase the loss; and the property may stay for ever in the court of chancery, locked up with two hundred millions, upon the interest of which the greedy officials of the court are pampered. What is the cause of this? It is because the judiciary are too independent. They have grown up too strong. The great object is to retain such a controlling power as will constrain the judiciary to do the pnblic business speedily and equitably. That can be done by one or two lines most effectually. Limit the judicial tenure and subject the judges to the action of the people once in four years. Judges are but the servants of the people. The government is distributed among three departments—the legislative, the executive, and the judiciary. The legislative is to express the will of the people, the executive is to execute it, and the judiciary to interpret it.

Long after my brilliant notions of the perfect ability of the judiciary began to waver, I conceived that impeachment was a scare crow, but I have since become satisfied that it is not even a scare crow. And that it would not induce a judge to remain one moment longer upon his seat, or to take one cent less, were he confident that he might thereby esbape impeachment. The only remedy is to make judges responsible to the people.

The parish court system has been in operation ever since 1805, about the time when the State passed from a despotic to a territorial government. Our system of laws are engrafted, in many respects, upon those courts. Take for example successions; the judge orders the execution of a will, appoints administrators, orders the inventory, orders the homologation of the proceedings, orders the family meeting, orders the sale, and superintends the sale, and makes all other orders and decrees that may be necessary to the settlement of successions. The whole system refers to the existence of these courts. After forty years practice, to supercede these tribunals which have become identified with the habits of the people, and to adopt a different system, would be too great a shock

upon public opinion, and might produce the rejection of the constitution. I repeat again, that were the question to be submitted to the people to-morrow, whether the parish court system should be abolished, the vote would be in the negative. When the Convention have adjourned, and each one of us has returned to give an account to his constituents, it may not be found satisfactory when we tell them, I have abolished your court, but I have obtained for you a justice of the peace. I have secured that. There is a district court that will come in the parish occasionally. I am sure that if I were to tell my constituents that, they would not thank me.

Well then, let us take the next district; Ascension and St. James. The people of Donaldsonville would not thank us when they were told that their court was abolished; that if there was a curator to be appointed, or an administrator, or any other similar business to be transacted, they would have to go out of the parish, and seek the district judge in the parish of St. James. Then, as to the next district: Iberville and Point Coupée. The district judge might be on the Amite or on the Atchafalaya, and certain emergencies might arise in the administration of justice, requiring his presence at a certain point; your property might be sequestered, your son might be imprisoned, and where would be the relief? But, oh, say the gentlemen, the court would be located at a certain point in th e parish, and the clerk would be competent to act, he could issue writs of sequestration, and attachements, and such other conservatory process as might be required. But could he dissolve them? The issuing of those writs, in some cases, might be very oppressive and injurious, and yet the party aggrieved would have to submit until the periodical return of the judge, unless the clerk was vested with the judicial power of determining these cases.

Inasmuch as the parish court system has grown up among us, and as it is a local tribunal of great convenience, it strikes me as being inexpedient to abolish it. We should lop off the abuses and excressences which have been produced by certain defects in its organization. We are called upon to remedy these abuses, but not to abolish the system. What reason has been urged for abolishing it? I think I have demonstrated that the public interest would be consulted by retaining it, with proper modifications and restrictions. Why we are told that it costs too much; that it would entail an expense for forty-eight judges, including the judges for the city of New Orleans. To that objection I would reply, that the expense would not be substantially greater than it now is. The supreme court for sitting some two or three weeks in Rapides and Opelousas, and some eight months in the city of New Orleans, is kept up at an annual expense of twenty-five thousand dollars. There are, besides, five courts in the city of New Orleans, exclusive of the associate judges, and if their salaries be added, we have an annual expense of sixty thousand dollars for the administration of justice in the city of New Orleans. The whole expense of the judiciary of the United States does not amount to that. To these expenses must be added the compensation paid to sheriffs, marshals, clerks, &c., whose name, to use the language of the delegate from St. Landry (Mr. Lewis), are legion.

I think that every man should be paid in proportion to his services. If he have but little to do, he should be paid but little. I do not apprehend the difficulty which is apprehended by the delegate from New Orleans, (Mr. Benjamin) as to the compensation to be allowed to the judges of the parish courts, were the proposition that I advocate to prevail; their compensation could be graduated according to the duties they had to perform. It would be no difficult matter to do that, for a provision might be made by the legislature that the State should contribute one-half and the parish the other half; the parish to regulate the salary. I have no idea of extravagance, and yet I would not have men starved who were in the publicservice; any number of reputable men fully capable of filling the office of parish judge, could be found for a reasonable compensation. We do not want men of splendid talents, who are versed in black letter, and who are familiar with foreign languages. We want men of good ordinary sound sense, who have implanted in their bosoms principles of rectitude. I am not among those who think it difficult to obtain the necessary abilities in the ordinary walks of life. I have seen a great deal

that convinces me no such difficulty exists. I have seen men called from their business without any preparation, and with very inadequate book knowledge, to serve on juries, and to pronounce upon life and death. They have, I may say, invariably decided right, and have exhibited great judgment and penetration, and yet their functions were the most important; they decided upon life, liberty and character. There will be no difficulty in obtaining men of sufficient abilities, without being compelled to impoverish the State by exhorbitant salaries. In the country, planters, who have wealth and leisure, will consent to dispense justice between man and man, without expecting to realize in the office a fortune in a few years. They will not be governed by such sordid considerations. There are, too, gentlemen of the bar, who have retired from practice, such as the distinguished delegate from Assumption, who would honor the station, and who would, I am convinced, if they accepted it, be indifferent to the amount of salary.

Who is considered the greatest judge? and who is most admired for his talents and learning? Judge Story. Well, that eminent man wrote seventy pages of manuscript which was produced on a certain trial, to the knowlege of one of my colleagues, (Mr. Soulé)—not by him, but by another party interested in the proceedings, to prove that a man could not have a second trial in a capital case, because it was in violation of the constitution; and thus, the man might be hung, in order that his life should not be twice put in jeopardy by a judicial process. Any one who reads Robertson's digest can very well understand the legal definition of murder, and that murder is meliorated into manslaughter, excusable homicide, justifiable homicide, according to the circumstances; so with the definitions of burglary, larceny, &c., &c.

There is not a parish in the State where a capable man is not to be had who will not decide correctly—as correctly as some of those men of splendid talents. Chief justice Taney, who in my opinion, is vastly superior in common sense to his distinguished colleague on the bench, to whom I have just referred, has not one-tenth of his lore.

I think a great deal is to be gained by the administration of justice on the spot. We have had some experience of the difficulties and blunders which attend the transfer of cases out of the State to the supreme court of the United States, where they nevertheless have the inestimable advantage in the opinion of some, of being submitted to the decision of men of splendid talents.

Having deeply pondered the whole subject, I am in favor of retaining the parish court system with some necessary ameliorations. I think that the people will prefer a court in their own locality to one out of it, or at least to one which is only periodically in it. I think that in cases where life, liberty or character are involved, and in matters of successions it would be a great improvement to provide that two or three magistrates should sit with the parish judge. The judge should be allowed a salary and no fees, and it should be provided that his salary should be paid one-half by the parish, and one-half by the State. I think that with these modifications to the system, and some others that I might suggest, we would secure a cheap judicature, and at the same time an efficient one. One that would answer all the just expectations of the people.

To illustrate some of the views that I have expressed, I would beg the indulgence of the Convention to read a page from a pamphlet prepared by me in relation to a certain case which has been transferred to the supreme court at Washington.

(Mr. Preston here read the extract referred to.)

If the suggestions which I have thrown out should be taken up by the Convention, and they should be induced to retain the parish court system with proper modifications, the reforms that we all desire can be readily accomplished. We can get through with this part of the subject in two days. But if we begin to engraft novelties and make so radical a change by the substitution of a new system for one which has been in existence for so long a time, there is no telling where we shall stop. 'It is better to bear the ills we have, than fly to others that we know not of.'

Mr. Downs said that the question was so important, that although it was exhausted to a great degree, he would offer a few remarks. He concurred in the general principle that one great object was to les-

sen the number of courts, and he scarcely doubted that this was the opinion of a large majority of the house.

One of the honorable delegates (Mr. Ratliff) had supposed that the abrogation of the parish court system would effect seriously the operation of our code of laws. That objection was so conclusively answered by one of the gentlemen that preceded me, that I deem it unnecessary to say any thing further upon that point. The delegate from Assumption (Mr. Taylor) whose remarks did not go to the same extent, had contended that if the change of system did not materially clash with the code of practice and the civil code, it would affect several articles in those codes. I understood the distinguished gentleman from New Orleans (Mr. Soulé) to concur in that opinion. I have no doubt that the repeal of the parish court system will render some articles in the civil code and code of practice inoperative, which are based upon and refer to the existence of that court. All questions of conflicting jurisdiction will be brought to a close with the suspension of these articles, and that will be a most desirable result.

We have been told that the report of the majority of the committee recommends a new system, and that inasmuch as it is a new system, and we are habituated to the old system of parish courts, we ought not to make a change. If this argument possesses any weight, we might as well have dispensed with steamboats, and not have superseded the clumsy barges which once supplied their places. The introduction of steamboats was a new system—it was a novelty, and yet it has proved far preferable to the inconvenient barges that plied upon the Mississippi, and performed a voyage to Louisville once in four months!

But it is urged that if we adopt the plan suggested by the majority of the committee, legislative action will be necessary to carry out the details. I have no doubt but that such will be the result. This, however, is not a peculiarity applying only to this portion of the constitution. It is not the province of a constitution to go into details upon any subject. It only settles what are the fundamental principles upon which the government shall be administered. The details are properly assigned to the legislature; it is the legislature that carries into effect and gives vigor to those details which are drawn from, and most conform to the principles embodied in the constitution. Some changes will necessarily have to be made in reference to the reorganization of the judiciary by the legislature, but they will be fewer than are supposed. The functionaries who discharge the same duties as appertain to the parish judges *ex-officio* will be continued; and there will be no difficulty in complying with those requirements of the codes which direct family meetings to be held and other proceedings to be had, which are now had indifferently before parish judges as *ex-officio* notaries public, or ordinary notaries public; and public sales can be made by auctioneers as is the course pursued at present, on some occasions. An act of a few sections will be all that is necessary to accommodate and reconcile this portion of our jurisprudence with the fundamental law.

Where it may be necessary the legislature may vest in clerks of courts the power to issue all interolcutory orders. In many States the clerk of the court is the chief recording officer and the keeper of the archieves. He enregisters mortgages and conveyances. Where from the nature of the duties of clerk this can be done, it may be well to pursue the same course; but at any rate, there should be one general office where all these duties are transacted, and where the people may attend to do all their business, although it be necessary in some parishes to have separate officers to perform these duties.

Why should there be so great a difference of opinion as to the expediency of abolishing the parish court system? I am not surprised; in fact I expected that the ancient population who have derived the system from the Spanish government, and have become completely identified with it, should be reluctant to relinquish it. Their feelings and habits are more assimilated to the system, and it has operated differently among them from what it has among the American population. There is something in unison between their mildness and the system. It is better suited to their patriarchal habits. They look up for assistance and advice to the parish judge—they consider him as a friend, and make him the depository of their their property to dis-

tribute it among their children after their death. I can very well conceive these feelings, and if I lived in such a community I would be, perhaps, as strong an advocate for the system as any creole. However amiable this feeling may be, it is nevertheless evident that the new population do not entertain these peculiar ideas and habits. They must gradually give way to the large influx of population, who, so far from having a partiality for it, entertain against it a deep-rooted dislike.

Such has been the change in some parishes, that the functions of the parish judge have been considerably modified, and although the office retains the same name it is a different thing. Although I readily admit that among the new as well as the old population, there are parish judges who have endeared themselves to their parishioners, and secured the public confidence, still candor compels me to admit that there are some of those officers in these times of speculation, who so far from consulting the interests of the public, are now intent upon their own, and in making the most money they can in the shortest possible space of time.

There is only another point, and I shall refer to it. Some distinguished delegates who are in favor of securing the benefits of uniformity, by having but one set of judges between the supreme judges and justices of the peace, think that these judges should be parish judges. I conceive there are insuperable objections to this plan. In the first place, the expenses would be augmented to a great extent; and in the second place, there would be great difficulty in graduating the relative salaries. In some parishes, the duties of parish judge are exceedingly onerous; in other parishes these duties are trifling. To fix the scale of prices would be a source of perpetual contest in the legislature. Another objection that suggests itself, would be the difficulty of getting persons to accept the office who were competent in remote parishes. Forty-six of these judges would have to be appointed, and as they would sit upon cases where life and death were at issue, their functions would be much more important than those at present assigned to parish judges.

The great evil which resulted from the former system, was, that too little importance was given to the decisions of the superior courts, and the judges were left with too little to do. Some judges have admitted the fact, that they were not as good lawyers, after having been for several years on the bench, as they were when they received their appointments. Appeals were taken from their decisions, as a matter of course, and very little solicitude was manifested as to their decisions; they were converted into mere commissioners to take the testimony, and send it up to the appellate court. It was natural they should become in many instances, careless and indifferent as to the character of their decisions.

Public opinion is decidedly adverse to the system; that is a fact which cannot be controverted. The report of the majority of the judiciary committee has given greater satisfaction than any other report. It was prepared by men of sound experience, who were intimately conversant with the whole subject, and whose suggestions were the result of their own practical experience. The apprehensions that have been expressed that the change would not operate beneficially, are illusory. There is nothing that can militate against the plan, if it be but fairly tested. It will secure a prompt and economical administration of justice, and if we accomplish these results, we shall do much towards satisfying the wishes of our common constiutents as relates to that most important branch of the public service.

Mr. Eustis: I did not intend to present any views of mine on a subject which has been so fully developed by gentlemen on this floor. But, inasmuch as some doubt has been attempted to be thrown upon the system proposed, I deem it not out of place to make a few suggestions, in order that each member, be he lawyer or be he layman, may vote understandingly upon the subject. I have no particular predilection for the proposition now before the house, further than that I believe that the objections raised to it are much less serious than gentlemen who have urged them appear to think—and that upon the whole, the work of the committee has been performed in as satisfactory a manner as was possible, and its adoption would be for the interest of the State.

What is the point at issue? A judicial

officer has heretofore been invested with nine different employments. This multiplicity of duties in the hands of one man, is a vestige of colonial servitude. It is the Spanish commandante without the sword and the cocked hat—for there is every thing else. This mode of investiture of officers may have answered, but it does not answer now.

Experience has demonstrated that nothing is to be expected from the legislature in reference to the abrogation of the parish court system. So far from any such design, a disposition has been shown to create new parishesin order to increase the number of these judges. It is only from the Convention that the people can expect that salutary reform, and I think their just expectations ought not to be disappointed. But how is the great work to be accomplished? The report of the majority of the committee suggests the remedy and the means. What do the committee propose? They propose to establish but one court inferior to the supreme court, which shall be presided over by a judge who shall exercise no other functions than those that are purely judicial, and that he shall be disinterested—not dependent upon fees, and therefore interested in litigation, but above any suspicion of improper motives, by receiving a fixed salary, suitable to the position he holds and to the services he renders—and sufficient to enable him to live in good repute among his fellow citizens.

This proposition appears to me to be wise. The members of the committee have reflected maturely upon it, and it is the result of the combined wisdom of gentlemen who stood high in their profession, and who had considerable experience in that profession. The community have had time to examine the question in all its aspects, they have pondered it well, and I believe there is a general concurrence of opinion. The members of the bar, who are presumed to understand the matter best, are generally in favor of such a change.

The delegate from Lafourche (Mr. Taylor) assumes that there will be but a change of names, if the proposition be carried, and that the old system will still prevail under a new form. This is a fallacy. We propose to supersede the parish judges, but we do not propose to transfer their manifold functions to the magistrates who may succeed them. If we were to do this there would be no reform in point of fact; it would only be a change of names, and if the district judge could accumulate litigation, it would be worse than the existing system.

We go further. We strike at the root of the evil, by placing the judge beyond temptation, and beyond suspicion, and in this consists the excellence of the principle. But we are told that there are courts established in all the other States which are analagous to our probate courts. I grant that there are courts whose jurisdiction extends to the settlement of the estates of deceased persons elsewhere, but I deny that their powers and their attributes are the same with our courts of probate. There is a material difference. Our courts of probate exercise exclusive jurisdiction over matters of successions, and all suits against estates must be brought before them. Elsewhere the exclusive functions of these courts, by whatever name they may be designated, extend to the probating of the last will and testament, the appointment and the confirmation of administrators, and the regulation of the assets. This is the system in England. In other States a similar practice prevails, and other courts may take cognizance of suits brought against successions. It was so here until 1825, but in that year the exclusive jurisdiction of the court of probates was consummated. In Virginia, Kentucky and Massachusetts, a suit may be instituted against an estate in any court. But here the decree is imperative—you must go to the court of probates! This exclusive jurisdiction is one of the prolific sources of the evil to which we are exposed, and which calls so loudly for reform. The other courts, in other States operate as a check upon the court of probates. The system thus works well. There is a responsibility and a remedy. Where the estates are insolvent, they are taken out of the probate courts, and placed in the hands of commissioners. But here they are thrown before the judge.

I do not pretend to say that the new system will be accompanied at first by all those benefits which we have a right to expect, but I consider the principle to be a good one, and if the details be wisely carried out by the legislature, I entertain no

doubt but that it will fully realize our wishes. It will simplify our system. Our judges will be judges! They will not be notary publics, auctioneers, clerks of their own courts, recorders of mortgages and recorders of conveyances! These multifarious functions will be restored to the proper ministerial officers. What shall we have gained? We shall substitute a sound principle for one that is falling to pieces.

An objection has been made to the expense. By having a judge who is enlightened, you have a man not interested in creating expense; besides the expenses will be reduced by the change of system, and the community will get rid of the enormous expenses that are now paid in shape of fees. These fees will not be accumulated, but the judge will be placed in the position of a disinterested party, by having no interest in them. The clerk will perform the ordinary routine of ministerial duties, and they will no longer devolve upon the judge. That functionary will no longer order a family meeting in one capacity, and hold a family meeting by an order addressed to himself, in another capacity; he will no longer take an inventory, as a notary, and homologate it, as a judge; order a sale, as a judge, and then cry off the property, as an auctioneer. If there was nothing else, this accumulation of employments in the hands of one person, should make it unpopular.

If, as the delegate from Jefferson anticipates, the third and last class of magistracy established by this constitution, justices of the peace, should be elected by the people, I trust they will elect none who are not fully impressed with the duties imposed upon them by law. One of the most powerful causes which contributes to the moral force of the State of Virginia, is that the persons who fill the office of justice of the peace, are men of standing, and that they are invested with probate business.

By adopting the system which is proposed I think you will apply an efficacious remedy to existing abuses; the machinery is simple; and it will insure an administration essentially democratic.

In reference to the proposition to create forty-eight judges, instead of eighteen, as recommended in the report, and upon a basis germain to this principle, I think, throwing aside the question of greater expense, that it is not as good nor as practical as the plan proposed by the committee. I have deemed these few remarks necessary; and they pre-suppose that reforms in the judiciary are generally conceded. I think there is too much officialism about the parish court system, even in the modified form under which it is proposed to retain it. There is too much of the cocked hat and sword. We want a system which will facilitate parties in arranging their difficulties out of court. The evils that have resulted are the necessary consequences of the defects in the former system; and it is a matter of astonishment that it has not even produced greater evils. The gentleman from Lafourche (Mr. Taylor) says that the system has worked well in his parish. This is high praise to the officers who have officiated. But we must look at the system as it has worked generally, and not to an exception, which, after all, is only in favor of the respectable constituency represented by that delegate.

Mr. Miles Taylor said that he was unwilling to trespass upon the attention of the house, but he considered the subject of such vast consequence that he would submit a few remarks. He had listened with much pleasure to the gentleman who had assumed grounds in favor of the section as reported by the committee. It was conceded on all hands that although the parish court system was not named, it was intended to abrogate it. This was the design of that section. It was evident that the proposition before the house involved the total abrogation of that system. It sweeps away every thing connected with the former administration of justice, and supplies no substitute. We are at a loss to conceive what is to take the place of the system which is deemed to be so obnoxious. Gentlemen may attempt to manage it as they will, but the system must exist. The property of minors interdicted, and absent persons must be subjected to the supervision of some appropriate officer. We have been told that this portion of the judicial duty should be committed to the clerks of court, by one of the delegates that has advocated the report. Another delegate (Mr. Eustis) tells us with such confidence as would induce us to believe that he had arrived at a solution of the difficulty, you must entrust this charge to

justices of the peace; and why? Because, says the gentleman, such is the practice in Virginia. To this I would reply, that it is not to justices of the peace, but to the county court, composed of several justices of the peace, to whom jurisdiction is given in these matters; and that even if we were disposed to go further than the State of Virginia has gone, and to confide to a single person in each parish, the same authority which is confided to a plurality of justices of the peace as a county court, our legislature, even if so disposed, would not under the section be competent to establish a similar system. This results as a corollery of the arguments which I shall proceed to state. But before entering into the merits of the question, I will take the occasion to set that delegate right upon one point. He says that the reform is necessary, but at the same time he admonishes us not to trust the legislature for the purpose of effecting it. This is as much as to say that the legislature are not likely to subserve the interests of the people, and to respond to their wants. He says that the people desire this reform, and they expect it from the Convention. Where, I would ask the delegate, and in what manner have they manifested such an opinion—have they given instructions to their agents in this Convention? We have been told that the system of parish judges is odious to the people; that they have suffered under it, and have waited in vain for legislative interposition. The legislature by a single breath could have annihilated it and have relieved the people, and yet they have refused to do so. Two of the distinguished delegates who have contended with so much zeal for the destruction of the whole system, were members of the legislature for several years. How is it that they never dreampt of suggesting this reform, and of testing the sense of the legislature upon it. The delegate from New Orleans (Mr. Benjamin) was a member of the house of representatives, and the delegate from Ouachita (Mr. Downs) was a member of the senate, both possessing the public confidence and the commanding influence which their talents gave them, and yet neither of them thought proper to enlighten their colleagues upon the defects and abuses of the system. How is it that these gentlemen could have remained silent, entertaining the convictions which they now possess. If this were so, they have condemned themselves, for they were aware of the evil, and they not only neglected to seek a remedy, but they neglected even to make it known; and if I speak so plainly it is less with a view of constituting myself as a censor, than for the purpose of showing that there is an inconsistency between the course pursued by gentlemen and the arguments which they have here advanced. Gentlemen are deceived. There is not that general feeling of dissatisfaction against the existing system which they would have us to believe, and the accumulation of abuses to which they have so often referred, is to be found only in their imaginations. If there be abuses, I repeat, it is not to the system itself that these abuses are to be attributed. It was in the power of the legislature at any moment to have arrested them; and if this was not done, those who were aware of their existence, are to blame for not taking the proper steps to put an end to them. In the section of the State where I reside, the system under a proper administration, has been found amply sufficient to guard and protect the widow and the orphan.

But, says the delegate from New Orleans (Mr. Eustis) we want a judge, and not a man who fills nine different employments. In all other countries, says the gentleman, the administration of successions are subjected to the jurisdiction of other courts, besides the court of probate, and so it was here until 1825, when the legislature invested the courts of probates with an exclusive jurisdiction, that we are to look for much of the evils that pervade the system. In assuming this as a fact, he then admits that the abuses are the results of legislation, and not the result of mal-administration. He admits that the evil would cease if the existing legislation were changed. But upon whom does that depend? It depends upon the authority which created the system. The evils are within the competency of the legislature, and therefore there is no necessity for our intervention. But oh! say the gentleman, the parish judge is paid by fees, and interest leads his judgment astray. The argument is the more specious, because as we are told, it is sustained by some deplorable facts. Admitting that this is another pro-

lific source of evil, why is it that the judge is made dependant upon his fees? Why are they not taken from him. The legislature have had the power, and if they have not done so, surely it is not the fault of the system itself. Change your legislation and withdraw these fees, and you will find that the system will no longer be obnoxious to your blighting censures and withering reproaches. I am free to admit that these different functions do not become the dignity of the parish judge, but I cannot conceive how it can be expected that great economy will result from their distribution into other hands. But have the committee found the means of abolishing these fees? It would seem not. They say that the ministerial duties for which the parish judges have heretofore been paid, should be transferred to clerks of courts, who, performing these duties, will exact similar fees. This is not all. And it is not so much in this, as in the palpable contradictions in the report in which we see the glimpses of the errors and improvidence of the system. It is prescribed that the judges shall exercise no other functions but those which are purely judicial. The judges are restricted to their judicial duties. But the clerks are not only to exercise ministerial functions, but likewise certain judicial functions. They are to issue all orders, and to perform such other acts as may be necessary to the administration of justice. The theory of this plan is novel enough. The clerks are, in some measure, to be the successors of the parish judges, and are to be favored to a greater extent than the district judges, as they are not to be restricted to a separate line of duty. When I say that the scheme is novel, I mean that it is so not only in relation to those to whom it has just been unfolded, but novel to those by whom it has been connected.

In examining some documents, I accidentally fell upon a report, made by the honorable delegate from Ouachita (Mr. Downs) when a member of the senate in 1841, as chairman of the select committee, to whom had been referred the bill to take the sense of the people as to the propriety and expediency of calling a convention to re-model the constitution. I will read an extract from the report in reference to clerks of courts, for the purpose of showing that the delegate (Mr. Downs) was not disposed then to place much confidence in these functionaries.

"Not only judges, but clerks, under our constitution hold their offices for life. This is one of the most lucrative offices under the government, and it is not only held for life and entirely independent of the people, or the legislature, or executive branches of the governmont, but has become in a great degree hereditary or transmissable by the will of the holder to others. The holder keeps it as long as he pleases, and then waits his opportunity until he can obtain a pledge from the judge who makes the appointment for his son, brother or other heir, who in turn transmits it as before. It is believed that many instances exist where this office has existed in the same individual, or in the same family since the organization of the State government, and where it will continue to so exist to an indefinite period, if the present constitution be not amended.

"This is creating a privileged order. This is giving a portion of the power of the government, as a property, to individuals and their heirs; and that, too, without the false plea of necessity, which is urged in favor of the life tenure of judges. So far is this principle from producing well qualified officers, it is notorious that, to the great annoyance of the lawyers and judges, no offices in the State are so incompetently filled. He had himself, within the last year, seen numerous cases in the supreme court delayed, lost, dismissed or imperfectly understood by the lawyers and judges, in consequence of the incompetency of clerks. In some cases the subpœnas to witnesses being sent up in the record, and the pleadings left out, and in some cases certified to be lost. He has seen a clerk officiating, who could not swear a witness correctly, or make the simple entry on the minutes, without the direction of the judge or the lawyers; and another whose habits and incapacity was such that the court could not possibly proceed, and was adjourned without doing any business, to the great detriment of many suitors. And what makes the evil in this case still more intolerable, is, that not even the judge, who has appointed such incompetent clerk, can remove him or appoint a successor. Nor

can the legislature apply a remedy, because he holds his office under the constitution."

These are the officers which the gentleman (Mr. Downs) would now substitute in place of the parish judges. One of two things, either the clauses of the report render one another nugatory, and in that case your system is without foundation, and you destroy a principle which is at least as good as the one you proposed—or the judicial functions are to be in part confided to the clerks of courts; and if you assume this hypothesis, you admit that it would have been as well to have left those functions in the hands of the parish judges, and not to have destroyed for the mere pleasure of destroying, and of introducing an utopia in the constitution. The delegate from Ouachita (Mr. Downs) stated his concurrence in what fell from the delegate from New Orleans (Mr. Benjamin) upon the subject of conflicting jurisdiction. The latter delegate spoke with so much warmth upon the perplexities of these conflicting jurisdictions, that one would have thought that his mind was preoccupied by the all-absorbing thought of conflicting jurisdiction, and that wherever he turned his eyes, he saw those ominous words, "conflicting jurisdiction." But how stand the facts? I find that they do not bear the gentleman out in his brilliant declamation, and in order that he should not attempt to correct me, I will submit the proof for what I here assert. I will refer to an authority which will have no doubt great weight with the gentleman. It is Benjamin Sliddill's Digest. It contains three thousand eight hundred abstracts of decisions of the supreme court, and embracing a period from 1813 to 1828.—Well, how many decisions do you suppose there are upon this vexed and all-pervading subject of jurisdiction, to paraphrase the language of the delegate (Mr. Benjamin)? There are one hundred and five, if I have counted them aright, and I find from the four last volumes of the decisions themselves, embracing a period from the early part of the year 1841 to late in the year 1843, but one case reported, and that arose in the city of New Orleans, which it is proposed to exempt from this remarkable change! Are we prepared to destroy a system because the fertile and inflamed imaginations of gentlemen have discovered greater difficulties than actually exist?

To pass on to another matter. Allusions have been had to the opinions of distinguished individuals to overwhelm the system with greater reproach. I have little regard for such authority. We should act for the welfare of the country, and use the power that God has given us to arrive at correct and proper conclusions. The delegate from Ouachita took me to task for differing from James Madison. These reproaches are useless; they are worse than useless; they are wrong, and inculcate a blind submission which is not authorized by the progress of the human mind. The gentleman from St. Landry (Mr. Lewis) has alluded to an expression of opinion of a citizen whose memory is justly revered. A man who was an honor to the State, and an ornament to the judiciary. He says that that individual left a solemn condemnation of the system. I do not draw the same conclusions from the fact to which he refers. It was not because the system was considered monstrous by one occupying so exalted a position, and that the judges of the courts of probates should not be entrusted with the duty of protecting the orphan, but it was because the legislation applied to these courts was vicious and defective. The horror which he felt at the interference of the court in his estate, was not the result of a want of confidence in the magistrate, but a want of confidence in the laws themselves, which were designed to guarantee the most sacred of rights; the right of property, and the right of inheritance. The delegate from St. Landry has confounded the cause with the instrument, and has attempted to throw upon the officer the vices of the system. We have been told that the functions of the parish judge are so multiplied that he celebrates marriages. There is nothing remarkable in confiding to him this power as a magistrate. Marriage is held to be a civil contract, and in all the States of the Union the ceremony may be and is performed by judicial functionaries.

I shall not recur to what has been said upon the various powers exercised by the parish judge, further than to remark that if it be wrong to accumulate so many employments in the hands of one person, and I am, for my part, averse to any thing of the

kind, it is very easy to apply a remedy. The legislature can apply an effectual remedy. But I can see no wisdom in withdrawing these functions from the parish judge, and transferring them to the clerk of the district court. I do not comprehend how the public are to be relieved from the payment of the fees, about which so much complaint has been made, by this substitution; or how such a change can conduce to the public interest or convenience. It strikes me as a very singular mode of reform.

As I understand the object of a constitution, it is to settle principles, and not to provide legislation. If, however, this body take a different view of their mission, and create the details of an irrevocable system, which, in my opinion, they ought not to do, but leave the discretionary power with the legislature; I would entreat gentlemen, before they take this course to reflect seriously upon the confusion and disorder which will result, if the system be found totally inadequate to accomplish the purposes designed.

On motion, the Convention adjourned until this evening at 5 o'clock.

Thursday Evening, April 17.

The Convention met pursuant to adjournment.

Mr. Soule moved that the reporters, during the continuance of the evening sessions, be dispensed from reporting more than an abstract of the proceedings.

Mr. Lewis opposed this motion. He had no idea of leaving such a discretion with the reporters, to report what they choose, and to leave out what they choose. It would give rise to a great many doubts as to what were the real opinions of members, and their sentiments would be misunderstood; for it was much more difficult to make a faithful abstract, than to report an entire speech.

Mr. Roselius was in favor of dispensing with the reports of the evening sessions altogether.

Mr. Mayo said he was convinced that it was physically impossible for the reporters to get through with the labor assigned them. He was very willing to dispense them with a certain portion of that labor.

Mr. Soule said he presumed that no more would be exacted from the reporters than they were capable of performing, and therefore, that his motion would prevail. From the manner in which these reports have heretofore been prepared, we may safely infer that this analysis will be satisfactory, as an outline of our proceedings.

Mr. Downs thought that the best course would be to elect another reporter in English. The session was drawing to a close, and the additional expense would be but trifling.

Mr. Claiborne said that if this motion prevailed he would move to appoint an additional reporter into French, for there was as much necessity in the one case as in the other.

Mr. Waddill, for similar reasons, would ask the appointment of an additional minute clerk.

Mr. McRae moved that the secretary be empowered to appoint such additional reporters, for the time being, as might be necessary.

These various propositions were put to vote, and lost.

The question then recurred on the adoption of Mr. Soulé's motion, and it was carried—yeas 39, nays 22.

Mr. Lewis said he could not consent to such a measure; he would, therefore, move that the office of reporter be abolished.

Whereupon the Convention adjourned until to-morrow at 10 o'clock, a. m.

Friday, April 18, 1845.

The Convention met agreeably to adjournment, and the proceedings were opened with prayer from the Hon. Mr. Stephens.

Mr. Humble offered the following resolution:

Be it Resolved, That from Monday, the 21st of April, the Convention shall meet at nine o'clock in the morning, and shall adjourn at three o'clock p. m. each day, Sundays excepted.

Messrs. Beatty, Dunn and Conrad expressed themselves in favor of holding evening sessions.

Mr. Dunn said it was out of the question to rescind the rule, holding evening sessions; it should be remembered that we had been in session four or five months, and we were not more than two-thirds through, and it was now nearly May. Could any member complain of sitting

eight hours out of twenty-four? Certainly not; and he would ask members to determine if it was not as convenient to sit here in the afternoon and listen to the debates as to sit in their rooms, or promenade the streets? True, it was laborious on the secretary, clerk and reporters—but if they could not perform their respective duties, employ assistants,—any thing that would facilitate the progress of the Convention. He admits, the Convention last evening was interrupted by motions, and no headway was effected, but a recurrence of this can be obviated by making a rule that no motion shall be entertained except in the mornings.

Messrs. Splane, Mayo, Lewis and Claiborne argued, that from the experiment that had been tried, it was clear that evening sessions would not be productive of any beneficial result. It was better to meet an hour or two earlier in the morning and to adjourn at an hour or two later in the afternoon. Business would be facilitated much more by this plan.

Mr. Splane offered an amendment repealing the rule for the afternoon sessions, but subsequently withdrew it.

Mr. Lewis renewed it.

Mr. Downs proposed that the question be taken on the second part of the resolution. If it were adopted he would vote for the second portion, although it would be with some reluctance.

The question was taken on the first part of the resolution prescribing that the Convention meet at nine o'clock in the morning. And the yeas and nays were called for; yeas 47, nays 19.

The question then recurred on the adoption of the second portion of the resolution rescinding the rule for afternoon sessions, and the yeas and nays were called for; yeas 47, nays 19.

Mr. Lewis stated that he had given notice of a motion to abolish the office of reporter. He had done so because he was opposed to allowing the reporters to make sketches of the debates which they were authorized to do by the concurrence of the house during the continuance of the evening sessions. Inasmuch as the evening sessions were abrogated, and the dispensation to the reporters consequently was at an end, he would withdraw his motion.

On motion of Mr. Marigny, the Convention took up Mr. Marigny's resolution rescinding the rule requiring a greater number to vote upon a motion for reconsideration than voted for the proposition, proposed to be reconsidered. And the yeas and nays were called for; yeas 19, nays 45.

Mr. Soule would inquire whether it was considered that his motion to reconsider the clause by which the city of New Orleans was constituted into one senatorial district, made anterior to the rule which his colleague (Mr. Marigny) had just sought to rescind, could be effected by that rule. He would address this interrogatory to his colleague (Mr. Benjamin) who on a recent occasion, as he had understood, had conceded that inasmuch as this motion to reconsider had been made previous to the adoption of the rule, it did not apply to it.

Mr. Benjamin called for the reading of the rule.

Mr. Benjamin said he concluded that the motion of his colleague (Mr. Soulé) was subjected to the rule just read, for although it was true that the delegate (Mr. Soulé) had notified the house of his intention to move for the reconsideration of the vote in question before the rule was adopted, it was no less indubitable that the gentleman had not made his motion to reconsider until after the adoption of the rule.

Mr. Soule said that he was indifferent as to the matter, for he was convinced that if a full house were obtained, there was a clear majority opposed to constituting the city of New Orleans into a single senatorial district, he thought it however somewhat singular that after establishing his right by an explicit admission, his colleague (Mr. Benjamin) should now contest that right.

Mr. Benjamin replied, that his colleague labored under a misapprehension. He was not aware of ever having made the admission attributed to him.

Mr. Soule said that he was not present when that admission was made, but he had understood from some members that it was made, and it appeared that such was the case from the official reports of the debates.

Mr. Benjamin suggested that it would be better to take the vote upon the motion to reconsider *de novo*.

Mr. Soule assented, and the subject was then passed over to come up in its regular order.

ORDER OF THE DAY.

Section first, article fourth of the report of the majority of the committee on the judiciary department.

The question pending being upon Mr. Ratliff's motion to strike out the words "in the city of New Orleans."

Mr. Downs called for the previous question.

Mr. Read said he would merely explain his vote, inasmuch as he was cut off from making any remarks; he believed that in voting for the section as it had been reported, and consequently against the parish judge system, he was voting in accordance with the wishes of his constituents, and not only of his constituents, but of nine-tenths of the people of the whole State. The people were in favor of those measures that would most effectually destroy that system, and which would substitute in its place a system more congenial with the feelings of the people, one more economical and less liable to abuse. Thousands of widows and orphans had suffered from the establishment of those courts. Successions had been dilapidated and wasted. We wanted a system based upon humanity and religion, and which would secure the rights of the helpless and unprotected.

Mr. Porter remarked that he was not favorable to the parish judge system, as a system. But he thought there ought to be some local court which would be of easy and ready access to the people of each parish. There was parish business that required such a tribunal. He was opposed to putting down the system before proposing one adequate to take its place. His ground for voting against the section was simply because no remedy had been suggested; or could be provided hereafter, even, by the legislature, for they are prohibited from establishing probate courts in each parish. This was unprecedented; there was no constitution in the United States that had such a provision, and there was no county or parish in any State but had a probate or orphans' court in it. He repeated, he was opposed to the present parish judge system, but he desired that the legislature should have the power of establishing such probate courts as are to be found in the other States, and that each parish should have the liberty of burying their own dead, and administering on their own estates at home. He said he had intended to discuss this question, but had been cut off by the previous question.

The question was taken upon Mr. Ratliff's motion, and the yeas and nays were called for; yeas 24, nays 37.

Mr. Downs called for the adoption of the section.

Mr. Soule moved to lay the section on the table subject to call. He made this motion in order to take up the section providing for the appointment of the judges. This course would do away with a great deal of debate.

Mr. Downs was opposed to this motion. The subject had been fully discussed for the last two or three days, and it was better to dispose of the section.

Mr. Lewis raised a question of order, whether the house would entertain Mr. Soulé's motion after the call for the previous question.

The chair decided that Mr. Soulé's motion was not in order, inasmuch as Mr. Downs had moved previously for the adoption of the section.

Mr. Porter offered the following substitute for the section:

The judicial power shall be vested in a supreme court, in district courts, and in justices of the peace. The legislature shall have the power to establish throughout the State courts of probates, the judges of which courts shall be chosen by the qualified electors in each parish, and the legislature shall have further authority to establish from time to time such courts in the city of New Orleans as may be necessary.

Mr. Beatty moved to strike out the words "the judges of which courts shall be elected by the duly qualified electors."

The yeas and nays were called for on Mr. Beatty's motion; yeas 30, nays 32.

Mr. Waddill then proposed to strike out the words "in the city of New Orleans," and to substitute the words "in incorporated towns." This motion was lost.

The question then recurred on the adoption of Mr. Porter's substitute; and the yeas and nays were called for; yeas 16, nays 49.

Mr. Saunders moved to insert in the section the words "and in parish courts with probate jurisdiction;" and the yeas and nays were called for; yeas 20, nays 40; consequently said motion was lost.

Mr. Porter said he was in favor of probate courts. They were recognized and established in every State of the Union; but there had been so many abuses in the parish court that he could not vote for it; yeas 20, nays 40.

Mr. Soule moved to take up his motion to reconsider the vote in relation to the senatorial districts of New Orleans.

Mr. Lewis would remind the gentleman that his motion had passed its order.

Mr. Miles Taylor moved to insert the following words after the words "district courts," "in probate courts."

The yeas and nays were called for upon his motion. Yeas 27, nays 35.

Mr. Waddill called for the division, so that the question might be taken on the several courts to be established.

Mr. Roselius considered that the question could not be divided.

Mr. Miles Taylor entertained the contrary opinion.

Messrs. Grymes and Wadsworth considered the question indivisable.

Mr. Culbertson appealed from the decision of the chair.

The decision of the chair was sustained.

Mr. F. B. Conrad moved to add after the words "New Orleans," in the section, the words "in the city of Lafayette;" which motion prevailed.

The question was on the adoption of the section, and the yeas and nays were called for; yeas 51, nays 16.

On motion of Mr. Soule, the Convention took up his motion for reconsideration; the yeas and nays were called for upon said motion—yeas 32, nays 34.

The Convention then took up section two of the judiciary report.

Sec. 2. The supreme court shall have appellate jurisdiction only except in cases hereinafter provided, which jurisdiction shall extend in all cases where the matter shall exceed five hundred dollars.

Mr. Ratliff moved to strike out five hundred dollars, and substitute three hundred dollars. He said that he could see no reason why a poor man should not have access to the supreme court, as well as a rich man. He hoped his motion would prevail. He could see no reason for changing the old constitution in that respect.

Mr. Grymes said, that the reason which induced the committee to fix the minimum of jurisdiction at three hundred dollars, was because a great deal of business had been imposed upon the supreme court. That court is hereafter to be charged with jurisdiction upon appeal in criminal matters, with cases in which the constitutionality or legality of any tax, toll or impost shall be in contestation, whatever may be the amount; and likewise with cases of fines, forfeitures and penalties imposed by municipal corporations. In addition to these duties, which will claim a great deal of its time, it is charged with issuing writs of *habeas corpus* at the instance of all persons in actual custody, under civil process. It seemed to him that the rights of the poor were much better guaranteed by these provisions, than by placing the amount for appeal at three hundred dollars. If the matter be examined, it will be seen that it is decidedly in favor of the poor, and that it guarantees to them some of the most important rights and privileges.

Mr. Ratliff said that it was with great diffidence that he entered the lists against the honorable delegate from New Orleans (Mr. Grymes) to controvert the arguments he has assumed. The gentleman is so much occupied with suits of the highest magnitude, and holds so high a position at the bar, that he does not give that consideration to small matters which I do. My professional experience proves to me the necessity for keeping the supreme court opened to the poor suitor, as much as to the rich suitor. I had a case not long ago, in which this was strikingly exhibited. A widow lady had a case involving fifty head of cattle. She lost her case in the court in the first instance, and I took the appeal, and upon the appeal I gained the suit. Now if this provision had existed, she would have had no relief, and would have been compelled to submit to the judgment of the first court, unless I could have shown that the cattle were worth more than five hundred dollars.

If as the gentleman (Mr. Grymes) would intimate, that there are but few cases under five hundred dollars, that would be brought

up to the supreme court, it strikes me that this is an argument in favor of my amendment, for it demonstrates that the supreme court will not be overburdened with this kind of business. Would it not be manifestly unjust to allow a stranger upon his arrival in our port to seek relief from the imposition of a tax upon him by going before the supreme court, when we deny to a citizen the right of an appeal where the amount involved was four hundred and ninety-nine dollars.

Mr. Grymes said he had briefly exposed his views upon the subject, and would not debate it further, but would leave it to the sense of the Convention.

Mr. Eustis said that he concurred in the views expressed by his colleague (Mr. Grymes.) There was a great accumulation of business in the supreme court at present, and the docket was behind-hand. It has been some years since the end of the docket has been seen. The dispositions in the new constitution imposed upon them additional duties. He thought there was more protection to the poor by the provisions which had been made in the report than would be derived by reducing the amount subject to appeal from five hundred to three hundred dollars. I would merely observe to those gentlemen who are not members of the bar, and who may not be familiar with this matter, that the committee composed of gentlemen of the legal profession, who have been for their whole lives in the courts, were unanimously of opinion that it was impossible, physically impossible for the judges to get through, if so much labor was thrown upon them, and that therefore it was expedient to relieve them in that particular. Now as to the considerations of poor and rich which have been introduced by the delegate from West Feliciana (Mr. Ratliff) he would merely remark that the members of the committee were in the category of poor men. There were no rich men among them. If the additional duties proposed be assigned to the judges of the supreme court, it is necessary to relieve them from appeals under five hundred dollars. Or otherwise you will have to withdraw the provision requiring them to intervene in all cases of taxes and in cases of imprisonment under civil process, which to my mind are infinitely of more importance than the matter of an appeal for two hundred dollars less.

Mr. M. Taylor had a few words to say: the gentlemen who were upon the judiciary committee he readily conceded, were eminent in their profession. It was designed, he presumed, to organize the system for the dispatch of business. One of the highest objects of government was the dispensation of justice. He did not look at the different classes in the community—whether they were rich or poor. They were members of one community, equally well entitled to all the privileges and immunities of American citizens. They were equally well entitled to justice, whether the amount involved were large or small. A poor man was as much interested in a suit for a few dollars, as a rich man was in a suit for thousands of dollars. The rich man was personally interested, whether he should be a few thousand dollars richer or not by the termination of a suit in which he was interested. But with the poor man, it was a question perhaps of his daily bread. I admit that there are difficulties in adjusting this portion of the system. Our supreme court will be over-burdened with business, but I cannot admit that the proper remedy for this lies in cutting off appeals in which men of small means may be involved. We should adopt a different remedy, for justice is sacred, and ought to be meted out to all men. There should be no constitutional limitation, and the highest court in which the most confidence was reposed, should be as accessible of redress to the poor as to the rich. This is the system adopted in some countries, and it is proper because it places all men upon an equality in reference to remedies at law. In some other points it also has advantages. It frequently happens that a suit for a few dollars involves principles of more consequence than a suit for a much larger amount. This is exhibited upon reference to the judicature of other countries. Look at the cases in England, examined by men combining the highest order of intellect, where the amount in dispute does not exceed forty shillings, and which settle some of the most important principles of law. In some of our sister States a similar practice prevails, and any suitor, be the amount large or small, may have the judgment of

the inferior courts revised; he may claim justice and have justice done him. I admit that such a system cannot be adopted here without great difficulty. The supreme court are not only authority in matters of law, but are authority in matters of fact. It is this supervision of facts that incumbers the court with records, and which arrest its proceedings. If that were changed, there would be no difficulty in giving the supreme court not only jurisdiction for an amount as low as three hundred dollars, but for a sum infinitely less. However that may be, I am for an equal distribution of justice without reference to the matters in controversy. I shall vote in favor of the motion of the delegate from West Feliciana (Mr. Ratliff) for the simple reason that equal justice ought to be extended to all classes.

Mr. Dunn called for the previous question.

Mr. Benjamin hoped that the call for the previous question would not prevail. The whole question of jurisdiction was involved. He thought that the call for the previous question was premature.

Mr. C. M. Conrad trusted that the call for the previous question would not be insisted upon.

Mr. Dunn withdrew the call for the previous question, and Mr. Scott of Feliciana renewed it.

Mr. C. M. Conrad called for the yeas and nays; yeas 24; nays 30.

Mr. Benjamin was sorry to have any thing to say when there was so large a minority who were for closing the discussion. He would suggest that it would be better to lay the section and the amendment upon the table until the question was decided whether the supreme court should decide on questions of law alone. If appeals to the supreme court were restricted to questions of law only, he could see no objection to giving the supreme court unlimited jurisdiction. The solution of the question whether appeals should be granted where the amount was under five hundred dollars, depended upon the action of the Convention in relation to the former point.

Mr. Ratliff moved to lay the section and his amendment on the table, subject to call.

Mr. Brent moved to strike out all after the word "jurisdiction," and to insert the fourth section of the report of the minority of the committee as follows:

Sec. 4. The supreme court shall have jurisdiction of errors of law in all civil and probate cases, where the amount in controversy before it exceeds three hundred dollars, and in all criminal cases when the accused is sentenced to a greater punishment than an imprisonment, or to the payment of a sum of money exceeding three hundred dollars. The legislature may give to the supreme court appellate jurisdiction as to matters of fact in such cases as they may deem expedient.

Mr. Dunn moved to lay the sections and the amendment on the table subject to call, and to take up the third section; which motion prevailed.

Sec. 3. The supreme court shall be composed of one chief justice and of three associate justices, a majority of whom shall constitute a quorum; each of said judges shall receive a salary of thousand dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of ten years.

Mr. Dunn moved to strike out the word "three" and substitute the word "five." The reason that actuated him in making this motion was, that if there were but four judges on the bench, and they differed in opinion equally, the law would not be settled. Five were necessary to settle the question upon appeal, and by having that number the administration of justice would be greatly facilitated, and there would be greater weight and certainty attached to the divisions. Experience had demonstrated the expediency of increasing the number of judges in the supreme court from three to five. If one judge of the district court were to give a judgment one way, and another district judge were to give a judgment on the same question the opposite way, and the supreme court were equally divided, it would result that both judges would be affirmed. The bare mention of this inconvenience would, he presumed, be sufficient to induce the house to increase the number to five, by which it would be obviated.

Mr. Lewis was sorry to differ in opinion from the delegate from East Feliciana (Mr.

Dunn) but he thought that the section should remain without the amendment for this simple reason, that each case would be decided by a majority of three. If two of the judges of the supreme court were for affirming the judgment, it would be affirmed for in that case, there would be the district judge and the two judges of the supreme court for affirming the judgment, and that would be the deliberate opinions of three men against two. The mere fact of being a judge of the supreme court, did not make any material difference, for it was presumable that men of equal capacity would be appointed district judges, and if the judgment of the district judge was concurred in, it would be a safe inference that the judgment was a proper one; at any rate it was as likely to be so, as if it was pronounced by three of the supreme judges, and dissented to by the remaining judge of the supreme court and the judge of the district court. In either case there would be a concurrence of the majority of the whole number, and it would be as well secured one way as the other. There would be however a most decided advantage in adopting the mode prescribed in the section. Heretofore a great evil had grown up from the fact that the judges of the district court considered themselves, and were considered by lawyers only, as commissioners to take testimony for the ultimate action of the supreme court; and were therefore in many instances, indifferent whether their decisions went one way or the other, as very little weight were attached to them. The tendency of this was to induce neglect in their studies, and some of them have freely acknowledged that they became worse and worse lawyers the longer they remained on the bench. They might give hasty decisions, because very little responsibility devolved upon them. If however, they are to learn that their decisions are of great moment and may settle the law, they will be more careful and will study their cases with greater assiduity when they know that they have to bear a large share of the responsibility, it will stimulate them to greater exertion, and as it is to be hoped that those best qualified both by their talents and integrity will be chosen to fill the office, their judgments will be as maturely considered as if they were final, which they will be in the event of an equal division of opinion between the judges of the supreme court. These are some few of the considerations which induced me to hope that the amendment will not prevail.

Mr. Garcia called for the yeas and nays upon striking out the word "four." He was in favor of three judges for the supreme court.

Mr. Brent was in favor of having but three judges of the supreme court, but he would vote against the motion to strike out because he was apprehensive that five would be substituted for four.

Mr. Humble for the same reasons would vote against striking out.

Mr. C. M. Conrad thought there was a great deal of force in the objection of the delegate from East Feliciana (Mr. Dunn) to the mode provided in the section for affirming judgments; which might result in decisions of a contrary character, both standing affirmed. There was, moreover, a great accumulation of business in the supreme court, and this business would be very materially increased by the provisions reported by the committee.

Mr. Porter would vote to strike out, with the view of inserting two.

Mr. Ratliff would vote in the same way for a similar reason.

The yeas and nays were called for; yeas 12, nays 43.

Mr. Read moved to strike out the following words, "each of said judges shall receive a salary of thousand dollars annually."

Mr. Read said he had examined in vain the constitutions of these States, to find the shadow of a precedent for the liberty taken by the Convention of 1812, in fixing the salaries of supreme judges. He had inquired in vain the reason of this singular provision, sought to be re-established and consecrated by the new constitution. Perhaps he would be told that it was necessary for the independence of the judiciary. If the independence of the judiciary be jeopardized by legislstion in dollars and cents, by the mere matter of law determining from time to time, suitable and adequate salaries, which shall not be diminished during the term of office, then indeed must the temples of justice in other States be the very fountains of iniquity. It is hardly conceivable that high-minded, honorable

men, such as judicial functionaries ought to be, would be bribed, influenced, or corrupted by the simple fact of their salaries being ascertained by law, instead of the constitution. Indeed, there is no possibility of danger from such source, when the legislature is prohibited, as is the case in the minority report, from diminishing the compensation during the continuance of the term of office. The framers of our federal compact had no such apprehensions, when they in their wisdom declared, that the judges of the supreme and inferior courts "shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office," thus leaving the subject to the justice of congress.

In order to have as many safeguards as possible, Mr. Read would prefer a total prohibition upon the legislsture from any control whatever, either in diminishing or increasing the compensation during the official tenure. But after all, if there be no higher or nobler motives for virtuous action, constitutional provisions of this kind would be of little avail.

Economy, good policy and business-like views are strikingly opposed to a permanence of salaries beyond all reach. Depression of the financial condition of the State, and general inability on the part of the people to restore the wonted prosperity, might imperiously demand a reduction of expenditures. Shall every officer but the favored judge, yield to the necessity? Such is not the doctrine of republicanism, nor of equal and exact justice to all men. On the other hand, it might so happen (though there is little danger to be apprehended on that score) that the salaries fixed by the constitution might be too small, in which event an injustice would be caused to those upon whom should fall the dignified honors of a judgeship. The judicial laborer is worthy of his hire, but he should be remunerated proportionally to the compensation of those engaged in other departments of government, and in a like manner, neither granting to him a constitutioual favor and security of which others are deprived, nor restricting him within limits not imposed upon all officers. It was formerly contended that large salaries were necessary to command the first talents of the country, but this has been found to be a gross mistake. Men seek not office for money alone, but principally for the immortality of name; they rise above the dust of earth, for the purpose of inscribing their histories upon the tablet of the skies. In order, however, to prevent the ermine from being prostituted to purposes of speculation, it should be removed as far as possible from every pecuniary motive, which might follow any action of this Convention in the premises, for in the establishment of salaries the highest standard would have to be selected for all times and seasons, lest in assuming a lower, the compensation would not be sufficient for the ordinary expenditures of life. Let us then leave this subject to the legislature, whose peculiar province it is to provide for the fair and just remuneration of all officers of government. He hoped his motion to strike out would prevail.

Mr. Marigny said that although the new constitution might not be approved by the people, he would nevertheless feel a secret pleasure in having been a member of this convention; for he must acknowledge, that during a life of sixty years, he had never seen such extraordiuary scenes as were enacted in this hall from day to day. Occasionally the sagacity and wisdom of the legislature are elevated to the skies, and again the legislature on the other hand is represented as a body in whom we should not repose the slightest confidence. Accordingly, when it was proposed to leave to it the discretion of establishing the seat of government where it was conceived to be most convenient, to modify the parish court system, we were told to beware of the legislature. The legislature will consult nothing but a spirit of cabal, intrigue and corruption. But now, when it is sought to establish by a fixed rule the salary of judges in the constitution, we are told that it is best to confide in the legislature; it is they that ought to be trusted with this matter, and they are worthy of implicit confidence.

From whence comes this contradiction? Where is the policy of making our judges entirely dependent and subservient to the will of the legislature? Is there in this any justice or good sense? No where in the constitution do we find a guarantee for property; and we were told that when we came to the judiciary that it would there

find ample protection. How is this promise to be fulfilled? Is this last asylum for property to be abandoned? It would be as well to re-establish in Louisiana the usages of the Choctaws and the Cherokees, and create at once the agrarian law. It cannot be that this convention cannot understand that the safety of the judiciary depends upon its independence from any control, such as would be possessed by the legislature, if the proposition of the delegate from East Baton Rouge were to prevail.

If you reduce to ten years, the term of service for the judges of the Supreme Court, how can you expect lawyers of eminence to accept the appointment, unless you allow them a sufficient compensation to support them and their families, and to enable them to retire without being reduced to absolute penury. The executive has frequently found it extremely difficult heretofore, when the office has been for life, to obtain suitable persons to accept of the appointment. How much more difficult will it be to find suitable persons to accept the office after your democratic constitution, or I might rather say your constitution which is distinguished for its demagogueism, shall be proclaimed as the fundamental law of the land. Inasmuch as you do not want but four judges upon that tribunal, take the $25,000 which has been heretofore allowed, and divide it between the four judges, so as to give $8,000 to the chief justice, and the balance to be equally distributed among the other three. If you do this, you will obtain lawyers of acknowledged abilities, who may be willing to relinguish their brilliant career at the bar for the honor of a seat on the bench, provided they have the guarantee of a decent living. If you leave it to the legislature in their caprice to fix the salaries, you will create uncertainty in the judiciary, and no one who is capable will accept the office. If you adopt such a provision in your constitution, the result may be its rejection, for the only security for property is to be found in the constitution. Men of industry, who have acquired large fortunes, are indifferent to who may be elected a representative or a senator, in comparison with the deep and abiding interest which they feel in securing an upright judiciary. I trust that the convention will reflect seriously upon this point, and not put our liberties and our property at issue by the establishment of an irresponsible judiciary.

The question was taken on Mr. Read's motion to strike out, and it was lost; ayes 14, nays 41.

Whereupon the Convention adjourned.

Saturday April, 19, 1845.

The convention met pursuant to adjournment, and its proceedings were opened with prayer from the Hon. Mr. Stephens.

Mr. Ratliff, on behalf of the committee on contingent expenses, submitted the accounts for the funeral expenses of the late Hon. Gilbert Leonard, which, on motion, were allowed.

ORDER OF THE DAY.

Section third—Article fourth.

Salaries of the judges of the supreme court, being under consideration yesterday, when the Convention adjourned.

Mr. Saunders moved that the paragraph referring to the salary be laid on the table, until the duration of office be first determined, which motion prevailed.

Mr. Brent moved to strike out the word "ten."

The question was taken and the ayes and nays were called for, ayes 29 nays 22.

Mr. Splane moved to fill the blank with the word "twelve."

Mr. Conrad stated that he had voted to retain ten years as a matter of compromise. It was very desirable in the zeal which gentlemen evinced to shorten the duration of office, that they should take heed not to make the period so short as to introduce instability into the administration of public affairs, particularly in reference to the judiciary. If it be borne in mind that with a life tenure, that in the space of thirty-two years we have had fourteen judges of the supreme court, making an average of but seven years and a half to each, it must be obvious that if these changes were so frequent with such a system, they will be much more frequent with a limitation of office to ten or twelve years; and we shall be exposed to changes enough in all conscience without shortening the term any further.

The question was taken on Mr. Splane's motion, and it was lost, 18 yeas 39 nays.

Mr. Brent moved to fill the blank with eight years, and the yeas and nays were called for; 47 ayes 7 nays.

Mr. Waddill moved that the question be first taken on the amount of salary to be allowed to the chief justice. Carried

On the motion of Mr. Ledoux to fix the salary of the chief justice at $7,000.

Mr. Preston said, I shall oppose the motion as proposing an unnecessary and exorbitant sum for the salary of the chief justice, undoubtedly to be followed up with equal extravagance in fixing the salaries of his associates.

The salary of the chief justice of the State was fixed at five thousand dollars by the old constitution. Under that constitution we had the good fortune to have selected as chief justice the late George Mathews and he has been succeeded by the present chief justice. These gentlemen have filled that exalted station for upwards of thirty years with eminent ability and distinction. They have not only given general satisfaction, but the State has been boasted of their administration of her justice and proudly compared them with the head of the judiciary in the other States of the union. They have been satisfied with this less compensation for their distinguished services. With it they did not impair, but increased their fortunes from independence to great wealth.

During a part of the periods they served, money was of little value being, greatly depreciated by a bloated currency, which I hope will never occur again. The wise political economist regards money as a yard stick or pound weight; when it is made abundant by extravagant paper issues the yard stick is short, or the pound weight light and will measure or weigh but little of the necessaries of life. But now the circulating medium is scarce, there is but little paper money, and therefore money is valuable. It is to be hoped this state of things, most favorable to economy and industry, will be perpetuated. And if so, five thousand dollars will continue to be a larger salary than during the bloated years of the growth and multiplication of banks until their crash. Lest it may hereafter be otherwise, I voted for the proposition of the delegate from Baton Rouge to leave the establishment and regulation of all salaries to the general assembly, believing it moreover their appropriate duty, and that it does not belong to the Convention. The Convention have decided otherwise. And now we are to consider that money is scarce and valuable now; to hope it will continue so, so far as that scarcity results from a restricted issue of bank paper, and as we have heretofore secured the services of the best chief justices with a salary of five thousand dollars, to take it for granted that we will continue to do so hereafter.

The great argument in favor of these enormous salaries for judges is, that the public are entitled to the services of the most distinguished lawyers on the supreme bench; that those in the city of New Orleans make seven thousand dollars, and will not theretore accept of seats on the supreme bench if a smaller sum as fixed for their compensation. There is a great fallacy in this argument. It is not the most distinguished advocates, nor those who make the largest income from the profession, who would make the best judges. There are three classes of lawyers who realize large profits from their practice.

First, the brilliant advocate who, by the fascination of his eloquence, makes the worst appear the better cause; who can ensure the triumph of innocence over persecution, and even snatch from the hands of justice the wealthy criminal, who ought therefore to abandon to him half of his fortune. The sonorous voice, the elegant gesticulation, the intense passions, the nervous system of the orator, bear down in his course the feeble barriers of law and evidence, and he reaps for himself and clients the richest harvests. Such an advocate I see before me, at the very head here, and rivalling the most brilliant advocate of any other country. But such an advocate is entirely unsuited to be a judge. Those strong passions, great excitability and eager impatience that makes the advocate, disqualifies the judge. May we ever be delivered from the eloquent judge, or the storm of passion or impatience on the bench.

There is another class of money making lawyers, who are most profound in regulating and systematizing the accounts of administrators of successions, of syndics or assignees of insolvents, the partitions of partners or heirs, and in the distribution take care to distribute a large portion to themselves. Their talents are mathematical entirely. It is the talent which piles one brick on another, until a mausoleum

is erected. As dull a man as I ever knew was the greatest mathematician; not a ray of genius ever illumined his perecranium. The principles of law and equity are foreign to their conceptions. Such lawyers may compass fortunes, but are unfit for judges.

There is still a third class of lawyers, who make large sums of money by investigating old titles, discovering defects in them, and embarking for the claimants for a contingent compensation generally, a half or at least a third of what is recovered. This class of lawyers make great profits, but by long practice in that description of suits, acquire a love and respect for forms and technicalities for rigorous law, as to loose all sense of equity and regard for moral right. From them the judges of the supreme court should not be selected.

What lawyers should be placed upon the highest tribunals of the State? Lawyers of good education, but who have studied the book of man as much as the books of authors written in their closets; men of clear undoubted minds, of but little imagination or excitability; great equanimity, patience and indulgence to human frailties. Lawyers habitually laborious and methodical in their profession, and especially in investigating the merits of the very case before them. They should be men of simple lives, of frugal habits, of great economy in their families, indifferent to the splendors of society and extravagant indulgencies, not only to afford an example in themselves and families to the community, but to abstract themselves from temptations and corruptions, inconsistent with their appropriate duties. Even if called from the country to this extravagant city, show no hesitation in saying they would obtain more respect, esteem and confidence, by being found at the neat, quiet and excellent but moderate boarding houses of the hundreds of widows who follow that occupation in this city, than at the splendid and extravagant St. Charles and St. Louis Hotels; and that such retirement would be far better adapted to the faithful and satisfactory discharge of their duties.

I would select the lawyer who, with a clear head and honest heart, had sought as far as possible the right side of all causes, and pursued them to a fair result and no farther, for a moderated compensation; whose soul swelled with equity, and whose mind anxiously sought for the rule of decision of the transactions and disputes of his fellow citizens, in the simple legislation of the State and decisions of its courts; the civil code of practice and statute, and our plain criminal law and reports of the decisions of our own courts; and where these failed, would look mainly to his own just heart for the solution of difficulties. The laws of God are few and simple; the laws of our State are likewise few and simple, and I trust in God will be kept so, so that all, as they are required to do, may understand them, and the plain lawyer I have described may easily interpret them.

Who was such a lawyer? The venerable, the lamented Judge Mathews, who could scarcely have made an economical living by the practice of the profession. The present chief justice of the State, a man of great learning, of deep methodical thought, of the most fearless independence and irreproachable integrity, but who could have made nothing by the practice of his profession.

But they had as their associate an advocate distinguished by brilliant talents, persuasive eloquence, and a fascinating imagination. By these advantages, united to great industry, he commanded a most lucrative practice, and made a great sacrifice by accepting a seat on the supreme bench. And now I say, without the slightest disrespect to his memory, which I revere, for I esteemed him to the day of his death, and know that he esteemed me, that he was not a good judge; that he yielded too much in his judicial career to those qualities which had distinguished himself, that having gained no doubt many, many bad causes, he did not distinguish sufficiently between what was right and wrong; what could be proved legally right secured his judgment in any case. He yielded entirely too much to technicality, and often sacrificed substantial justice to mere form. Commencing with the decision in the case of Guyiso against ————, he reared a system of technical jurisprudence by purchasers in good faith, for full consideration were evicted for mere defect of form, that was bringing total insecurity and ruin on the State, and was insupportable when he resigned. And I do believe he resigned, not from anxiety to embark in political life,

but because he saw the course of his decisions becoming insupportable, and which he remedied as far as possible by the monition law, which I am told he proposed, and had friends to carry through the legislature.

From these considerations, I am persuaded a salary of five thousand dollars will always command the services of the most suitable men to be placed on the bench of the supreme court; and therefore that a greater compensation would be unnecessary and extravagant.

I am led to the same conclusion, by what I see throughout the United States. Without adverting to the moderate salaries of the supreme judges of our sister States, the chief justice of the United States receives but five thousand dollars, and his associates but four thousand: and yet, in addition to their sessions at the expensive city of Washington, they are required to travel over expensive circuits, and hold courts at the capitals of the different States, and yet congress, with all the resources of the United States, regard their salaries as adequate. The secretary of state of the United States, who has to engage in unceasing diplomatic correspondence with the talented ministers of all countries, and direct our ministers and agents all over the world, to study and regulate all our foreign intercourse and much of our domestic administration, and entertain social relations with all the agents in these departments, at the expensive city of Washington, receives but six thousand dollars. And the secretary of the treasury, charged with the collection and disbursement of the whole revenue of the United States, and the development of all her resources,—and the post-master general, with labors more herculean in the superintendence of almost an army of agents in diffusing knowledge and intelligeuce all over the United States, have each, with all the other great officers of government, but six thousand dollars compensation a year.

Mr. Ledoux: Mr. President, I owe, perhaps, an apology to the house in taking the floor after the distinguished delegate from Jefferson, (Mr. Preston) who has just resumed his seat, but as I made the proposition which meets so strenuously his opposition, I may be pardoned to state the reasons that induced me to make it. It is a great fault, in my judgment, that both in the general and State governments the public servants of the people are not sufficiently compensated for their services: and for that reason, having served their country all their lives, at immense sacrifices, four-fifths of them die in the utmost poverty. Look at the history of our country, and you will find that to be a sad fact. I will not say, sir, that the compensation now allowed to a judge of the supreme court is inadequate to the responsible and arduous duties which he has to perform, though I admit that to be true; but I will say that it is insufficient to procure for him and his family even the necessaries of life; it is insufficient to permit him to live in the manner in which a judge of the supreme court of the State of Louisiana ought to live. Gentlemen must be aware that it is impossible for a family to live well in the city of New Orleans with less than three thousand dollars; but the judge has to hold court also in Alexandria, and in such other places as the legislature may by law determine; he has to take his family to the country during the summer months, and bring them back to the city in the fall of the year; and I risk nothing in saying that this necessary travelling consumes the balance of his total salary. Where then is he to find the means wherewith to educate his children, to render them in time capable of serving their country? Where are his hopes to leave them a fortune when he will be no more? I have been told, sir, by one of the judges of the supreme court, now sitting on that bench, whose family is not a very large one, that the actual salary, of five thousand dollars, far from being sufficeint to pay his annual expenses, that he has to take two thousand dollars from his income in order to meet these expenses; and I can assure gentlemen of the Convention that if the epithet of extravagant can be applied to any man, it will not be to him.

We were informed here, no later than yesterday, by the honorable delegate from New Orleans, on my right, (Mr. Marigny) that several of the judges of the supreme court have been compelled to resign their seats on that bench; and many eminent lawyers have refused to accept, because the salary is too small. I am not at all astonished at that, sir; and I will be less astonished to see it happen oftener in the fu-

ture. There are in the Convention many very distinguished lawyers, whose practice I am informed, does not fall short of ten thousand dollars; is it to be presumed that any of them will abandon that practice for the mere honor of a seat on the supreme bench, especially when the tenure of that office is limited to eight years, as we have decided but a moment ago? Surely gentlemen do not believe that. I know myself, sir, some very distinguished and talented gentlemen, worthy in every respect to fill that responsible and important station, who would not consent to do it, on account of the salary. If it were offered to them, they would say, with Dr. Goldsmith, who being appointed professor of ancient history in one of the universities of England, an office to which great honor was attached, but no salary, declined, answering, "honors, for a man in my situation, are like ruffles for him who wants a shirt." Mr. President, there are many Goldsmiths in our country—men who are poor in what concerns the precious metal, but who are rich in intrinsical worth; men to whom the country looks with mingled pride and admiration, and in whom the people would place their love and confidence. These are the men who can serve their country well; these are the men who ought to be compensated well.

I hope, sir, that we will not prove by our actions that republics are ungrateful. I hope we will not show to the world by our conduct, that the sublime principles for which Washington drew his sword; for which Patrick Henry spoke, and Franklin wrote, and for which a host of the worthiest patriots that the world has ever seen, have fought and bled. I hope, I say, that we will not show by our conduct, that those principles are founded in error; and that our government, which results from them, is ungrateful. This would be a manifest contradiction. It would be to say that virtue, morality and justice itself is unjust; for these are the basis of our government. I hope gentlemen will consider this as a common-sense question, and not as one which ought to rest on precedence; for, if in other States, public officers are permitted to starve, it is no reason that it should be the case here. I hope that they will not be guided by motives of misplaced economy, but on the contrary, will do what in their consciences and their judgments they think is right and just.

I hope, sir, that my motion to fill the blank with "seven thousand dollars" will prevail.

Mr. Grymes said that he looked upon this matter as of great importance—perhaps the most important in its consequences that we could discuss. His adherance to the motion to fix the salary of the judges of the supreme court at seven thousand dollars, was the result of a few plain, practical principles. He did not seek to discover in which particular class of lawyers, as they had been classified by the delegate from Jefferson, (Mr. Preston,) we should make the selection of judges. The question as to what amount of reputation this or that member of the bar may acquire in his practice, what is the amount of his fees, what particular quality might distinguish his head or his heart, and how far incompetency might result from erudition and experience, were matters with which we have nothing to do. The object he apprehended was to secure suitable persons to fill the responsible office of judge; persons in whom the public confidence could be reposed, and who were worthy of that confidence. The delegate from Jefferson (Mr. Preston) has imagined a system which is truly remarkable for novelty. He thinks that we ought to take our judges from those unpretending members of the bar, who are unable to make their living at the profession. Here is a new principle in political economy; and I would ask what is to become of the incumbent, who, after eight years of service on the bench of the highest tribunal of the country, is under the necessity of returning to his profession to make his daily bread, and to sustain himself and his family. His practice, such as it was, will be gone, and he will be without the means of acquiring an honest livelihood.

I consider property as the representative of labor. The man who works with his hands, as well as he whose mental powers are taxed, have a common object. It is to secure to themselves a reasonable amount of property, for that period of life when their physical powers and mental energies require tranquility and repose. The acquisition of property is the chief incentive to human exertion, and he who has labored to obtain it, clings to it with all the tenaci-

ty of which his nature is susceptible, and resists to the last every attempt to deprive him of its possession. The labor of all, as I have said, have a common centre; it is to secure property, labor is the great business of the world, and, in God's name, the fruits of labor ought to be adequately protected and guaranteed, and be placed beyond the power of injustice and oppression. This is the end and aim of the establishment of the judicial power. It has no other mission than to protect the rights of persons, and the rights of property. If these be desirable objects of human government, its ministers should be placed beyond the remotest possibility of suspicion; they should be adequately remunerated, and such inducements held out as to secure the services of men of superior talents and of great integrity, to administer its decrees. There is not a single tax payer who is not willing to contribute a few dollars more to secure an honest and impartial judiciary, for he knows that upon such a judiciary depends the possession and the enjoyment of his property.

The advocate is master of his own time. He may attend to his profession or not, as he chooses; he may devote his time to that particular business which he prefers; he may mix his professional pursuits with other pursuits; he may cultivate cotton or sugar, while following his profession; but the judge of the supreme court is bound to give all his time. all his energy, all his industry, to the public. All these are due to the public, and he must labor without stint and with scarcely any relaxation, in the discharge of the arduous duties he has undertaken. I would ask candid and reasonable men, whether seven thousand dollars is too much for such services? Experience has demonstrated that five thousand dollars is an indaequate compensation, for it has been with the greatest difficulty that the appointments have been made of suitable persons to hold the office. The judges are obliged to travel over the State, and have to incur the expense out of their salaries. I think that seven thousand dollars is as little as can be accorded to the chief justice, and six thousand five hundred to the associate justices. I cannot vote for less.

The question was taken on Mr. Ledoux's motion, to fix the salary of the chief justice of the supreme court at seven thousand dollars, and the ayes and nays were called for, ayes 22—nays 35.

Mr. Brent then moved to fill the blank with five thousand dollars.

Mr. C. M. Conrad said he had never heard it suggested at the bar, where he had practiced for a number of years, nor in the legislature, in which body he had had the honor of a seat on more than one occasion, that five thousand dollars was an exhorbitant salary for the Judges of the supreme court. On the contrary, he had frequently heard the opinion expressed that it was insufficient; and yet the tenure of the judicial office was for life. It seemed to him to be an irresistable conclusion, that if five thousand dollars were considered nothing more than reasonable when the office was for life, the compensation ought to be augmented now that the tenure is reduced to eight years.

The delegate from Jefferson (Mr. Preston) has made a long harrangue as to the particular class of lawyers who, in his estimation, should be placed upon the bench; and if we follow him in his remarks, it would seem that he delights in diminishing the objects that present themselves to his vision, and to look at them through the small end of the spy glass—so small and so contracted do the views which he presents appear.

Give us, says that delegate, a man of ordinary comprehension, but who has a mountain of equity in his bosom—for such a man a small compensation will suffice, inasmuch as he may board at one of the economical establishments kept by widow ladies. It seems to me (said Mr. Conrad) that a judge of the supreme court ought to be the father of a family, and not under the necessity for a matter of economy to board either in a private family or large hotel. He should reside in his own house, away from bustle and distraction, and in quiet retirement. Are five thousand dollars sufficient to providefor his wants and those of his family in a manner and style befitting his station in life? I would ask if the delegate himself, who as the attorney general, receives a salary of three thousand dollars, and has besides the opportunity of attending to a large practice, and who is allowed by law a district attoreny to assist him, and who does the drudgery of the office, whether he thinks five thousand dollars

unreasonable. Has the delegate ever found his own salary of three thousand dallars too much, since he is enabled to procure the economical board with widow ladies, which he recommends to judicial patronage? I have no doubt that he thinks his compensation small enough, and that he would be the last to relinquish, willingly, one dollar of it, so long as he holds the office.

The duties of the judges of the supreme court are made more onerous than those of the attorney general. They are under the necessity of setting daily from ten until three o'clock, and have no relaxation—for when they are not in the city, they are holding court at Alexandria or Opelousas; whereas, the attorney general has a vacation of three months, and has the district attorney to represent the State, when he does not choose, or it is inconvenient for him to do so. He is therefore master of his own time, and yet he does not think three thousand dollars for himself, with perfect freedom to follow a lucrative practice, too much! But five thousand dollars, where a judge is concerned, is a most excessive salary, and ought to be cut down to a more modest standard. So says the attorney general.

What is the most remarkable in the gentleman's peculiar notions, is, that men of high intelligence are unfit to hold a seat upon the judicial bench. He thinks they ought to be excluded to make way for ordinary and common understandings. The more ignorant the man is, the better qualfied he is to discharge the functions of a judge of the supreme court. This is the logic of the delegate, and the gist of his argument is to exalt ignorance over talents. A man of superior abilities he pronounces unfit for the office! He wants a cheap judge—an ignorant man he prefers, provided he has a mountain of equity to swell his bosom. This superabundance of equity would be of very little avail to one who did not know how to apply it properly, and whose ignorance would be displayed on every occasion. For such a magistrate, five thousand dollars would be too much! But for a man of ripe judgment, an accomplished and able jurist—a man who has some reputation as a lawyer, five thousand dollars are not adequate. They are insufficient, and not in keeping with the nature and the character of the duties to be performed. The community want security; they want judges upon whom they can rely, and will never begrudge a suitable compensation to place such men upon the bench. I hope that the motion will not prevail, and that a more adequate compensation will be allowed.

Mr. Roselius said he was sorry to see a disposition manifested to adopt a system of economy, and to apply it to a branch of the government where it would be extremely mischievous to the State. The office of Judge of the supreme court required qualifications that it was difficult to meet with, and it ought to be remembered that it not only involved the duty of expounding the laws, and applying them to the matters submitted for their decision, but likewise, in a great measure, the making of laws; because in every State which exists, or may exist hereafter, the laws are divided into written and unwritten. The statutory law is the written law. The legislature lays down rules, and the judicial power developes them; and it is this which forms the jurisprudence of the country. The unwritten, or customary law, therefore, is more comprehensive than the written, or statutory law. If you ask a lawyer any given question, he will not only refer to the technical provisions of the law, but he will fortify his construction by a reference to the decisions of the tribunals of the country. Hence, the body of the law is not only confined to the civil code and the code of practice, but embraces, in this, as in other States, the decisions and expositions of the courts, upon all questions upon which may arise these statutory provisions. The rules invoked not only govern the particular cases, but all subsequent cases involving similar points, which may arise. It is folly to suppose that a man not conversant with the science of the law, is fit to be appointed to expound the law. He may fill the seat corporeally upon the bench, but for all useful purposes, you might as well substitute a man of straw. Law is not a science that is to be acquired by intuition. It requires a particular aptitude, great and continued study, and a profound and extended range of knowledge; and if you place a man upon the bench who has not the knowledge, who has not the skill to develope and apply the compli-

cated and difficult principles of jurisprudence to the particular cases that may arise, justice will not be comprehended nor administered in a satisfactory and proper manner.

The doctrines which I have heard emitted this morning, appear to me to be so contrary to the principles upon which social order reposes, that I do not hesitate to assert that in ten years, if they were to prevail, the most complete anarchy and confusion would result in our judiciary, and we would be justly obnoxious to the anathemas of our constituents and of posterity. It is an error—a fatal and flagrant error—to suppose that a mere rectitude of purpose, if it can be obtained without intelligence and learning, will suffice to expound the laws, and to maintain them in their vigor and purity. It is essential that the judge should possess great integrity; but it is equally essential that he should possess a thorough knowledge of men and things—that he should be versed in the most difficult and abstruse of human sciences—for without a knowledge of law, how is he to comprehend and define the laws which he is called upon to interpret, and to apply, with a rare sagacity, the principles of the science, to doubtful and particular cases? Under the ægis of the law, life, liberty, property and reputation find protection; and how are these to be protected, if you commit your judiciary to incompetent and unworthy hands? Is it proposed to return to the ancient system which prevailed when Louisiana was under colonial vassalage to Spain? When the most shameful traffic attended the administration of the laws? Wherever ignorance predominates, venality and corruption are almost sure to be found.

When the constitution was formed in 1812, five thousand dollars was not deemed an immoderate compensation to the judges of the supreme court; and yet five thousand dollors at that period, may be considered the equivalent to ten thousand dollars now. If we consider the difference of labor imposed, the compensation in 1812 bears a most striking disparity to what is now proposed to be allowed. In 1813 there were but twenty-five cases to be decided in the eastern district. In in 1831 there were but ninety-eight cases on the docket; and this was considered to be a great increase by judge Porter; of whom I will take this opportunity to say, that a man of sounder, or a more comprehensive and grasping mind—one more enlightened or more upright as a magistrate, never graced the bench of this or any other State. He has shed more lustre upon our jurisprudence than any other man, with the exception of the present venerable chief justice, and his memory is embalmed in the best affections of his country. So great has been the accumulation of business since 1831, that during the last seven months, upwards of four hundred cases have been decided. And is it seriously proposed, that now that the labor is so much increased—that you have reduced the number of judges, and have attributed other important and difficult functions to them, and with the certainty that from year to year their duties will become more and more excessive, they are to have no greater salary than was allowed in 1812, and with the change of tenure in the office from life to eight years.

I am no admirer of monarchical institutions, and yet I am constrained to admit that there is no country in the world whose system of laws are better administered than those of England. Is it because her system of laws are better? No, our system is infiinitely better! How does it happen? Because the judges are selected from the ablest and most distinguished advocates; and in addition to the honor of a seat upon the bench, they receive liberal salaries. It is thus that the bench of England has been graced with such men as Mansfield, Ellenborough, Tittenden, and others of like distinction. Why, the chief justice of the Queen's Bench gets a salary of ten thousand pounds, equivalent to a salary of fifty thousand dollars of our currency. I do not refer to this for the purpose of advocating extraordinary salaries; but to show how labor is compensated elsewhere, and how desirable it is considered to obtain men of the most exalted talents for the bench, by the most liberal allowance of salary.

The arguments that I have heard this morning, induces me to believe, that one of the delegates was in earnest when he observed at Jackson, that in allowing large salaries to the judges of the supreme court, we were limiting the choice to those mem-

bers of the bar that stood in the foremost rank, and were excluding all the balance, which was adopting an exclusive principle towards the more numerous class. It is true, that by allowing liberal salaries, we offer an inducement to men of talent and experience to accept the appointment, and we avoid the necessity of taking individuals totally unqualified for the station, which would invariably be the consequence of cheap and inadequate salaries. But we shall be the gainers by the restriction, if it may be so called, with monopoly in favor of talent. Economy in reference to the judiciary is totally misplaced, you may economize in every thing else, if you will, but for God's sake, do not impair this for a few thousand dollars, the efficiency of a system upon which depends millions, and not only property, but life and reputation. I hope the house will pause before they take an irretrievable step, from which the most pernicious consequences will flow.

Mr. Ratliff on behalf of the committee on contingent expenses, asked leave to audit an account of Messrs. Besangon, Ferguson & Co., printers to the Convention, for $200; which was accorded.

Whereupon the Convention adjourned.

Monday, April 21, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer from the Hon. Mr. Stephens.

Mr. Downs asked to be excused from serving on the committee to whom was referred the resolution of Mr. Chinn on duelling, on account of other duties. He was excused, and Mr. Lewis was appointed by the president in his stead.

The Convention resumed the consideration of the paragraph fixing the salaries of the chief justice and associate justices of the supreme court.

Mr. Brent said, I was in favor of leaving to the legislature the power to fix the salaries of judges. I thought it right and proper that that portion of the government which imposed taxation should control the public expenditures. It ought to be left in the hands of the legislature, where it is left in every constitution. I find in the constitution of the United States the following provision:

"Art. 3. Sec. 1. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall at stated times receive a compensation, which shall not be diminished during their continuance in office."

Now, sir, I was in favor of incorporating a similar provision in this constitution; and I conceived that, had it been done, the judiciary would have been as independent of the legislative department, as it would have been, if the salary were fixed in the constitution. One strong reason which should induce us to leave it to the legislature is, that money fluctuates in value. Five thousand dollars may be an adequate compensation at present, and become exhorbitant hereafter. That, it seemed to me, would have been the wisest course; but the convention has decided otherwise, and now we are to say what shall be the salaries of our supreme judges, throughout all time to come. Three delegates from New Orleans have adduced arguments in favor of high salaries, and in the progress of their remarks, some curious facts have been elicted in relation to the practice of law in this city. They have furnished us with occasional glimpses of the ledgers, and cash accounts of the practising attorneys; and I must confess that it has disclosed a most prosperous and flourishing condition of the profession in this city. These gentlemen speak as familiarly of fees of six thousand dollars and of ten thousand dollars "as maids of thirteen do of puppy dogs." One gentleman on the opposite side of the house, (Mr. Roselius) speaks of having just received a fee of six thousand dollars; another gentleman, within my hearing, says that he has just been retained counsel in a certain suit, with a fee of four thousand dollars. Another delegate who spoke yesterday, has received, for one solitary fee, the enormous sum of sixty thousand dollars, as I have understood. Now, if the salaries of judges are to be graduated upon the scale of these exhorbitant fees; and if gentlemen are to be transferred from the bar to the bench, with such a practice as they seem to indicate, without losing anything by the operation, then it is evident that this State is doomed to hopeless and inevitable bankruptcy and ruin. While gentlemen were descanting upon the great wealth which attends the practice of the

law in this city—of the vast sums which it produced, and which flowed not in small streams, but which rushed into their pockets in a torrent, I could not but reflect, that no gentlemen in the community were so ill qualified to make an estimate of the salaries which ought to be paid to our judges. These gentlemen live in a fairy land. They are treading upon carpets of gold and silver tissue, and their minds are constantly haunted by visions of splendor. But they have no thoughts of the bare walls, the rugged floors, and the scantly furnished apartments, which constitute the habitations of the industrious laborers of the soil—the very men upon whose labor this fabric of prosperity and splendor has been built. They seem to consider our people as in a flourishing and prosperous condition. The very reverse is the truth. We are not a wealthy people. We are groaning under a superincumbent pressure of debt, which sits upon our energies like an incubus. Our commercial and agricultural resources have been crippled and paralyzed, and we are but just recovering from the evils of an irresponsible banking system.

It will not be pretended that other states do not secure the best talents for their bench. It cannot be presumed, I say sir, that talents elsewhere placed upon the bench are inadequate. Some gentlemen appear to entertain the opinion that we ought to pay judges large salaries in order to enable them to make large fortunes. I object to that principle. It is not right and proper that they should accumulate large fortunes while in office.

But, admitting that the salary should be large enough to enable them to secure fortunes, then I contend that five thousand dollars is ample for that purpose. What has been our experience. We have been giving five thousand dollars to each of the judges of the supreme court. Have not some of them accumulated large fortunes? Is it not well known that there are three or four of them, who are immensely wealthy. One of them, it is said, has a fortune of half a million of dollars. Two others of them have made immense fortunes. With these facts before us, it is impossible to come to any other conclusion, than that five thousand dollars is amply adequate for every purpose for which a salary should be required. It is true, that if the judges live in magnificent style and with extraordinary splendor, five thousand dollars is inadequate. But do we desire this extravagance, for which the people are to be sorely taxed? Would we not rather see our judges practice economy and frugality, and set a good example to the rising generation of the country? We should not wish to furnish them with salaries to enable them to act otherwise.

One of the delegates last Saturday, alluded to a fact which exhibited that great reforms were needed for the judiciary. He said that there was a feeling of apprehension, of growing alarm, in relation to the judiciary; that the public confidence was unsettled in it. But, he seemed to think that this originated from the circumstance that the judiciary had not been sufficiently remunerated. If with a salary of five thousand dollars the judges have been enabled to make fortunes, I cannot see how it can be urged that the salary is insufficient. I cannot conceive that the salary has any thing to do with the fact to which that delegate alluded. I only refer to what he said, as settling the mooted question, whether reforms be necessary in the judiciary, or not. The delegate was right. There is a feeling of distrust and a want of confidence in the judiciary, but he is wrong in tracing it to its source. It can be traced, and it will be traced, to another and a different source. The cause lies deeper, and the remedy is to be found in a different direction than in an increase of the salaries of judges, and in allowing them an extravagant remuneration for their services.

The North American sun does not shine upon a people who are taxed more heavily than the people of Louisiana. Upon an average, each citizen pays a tax of two dollars, while in some States the average is fourteen cents a head. To hear gentlemen talk, one would suppose that our treasury was overflowing with the riches of the world; that money grew upon the trees, that we were the possessors of the mines of Peru, and the quicksilver mines of Mexico. Gentlemen have a very incorrect notion of the true position of the people of Louisiana. What are we to gain by allowing exorbitant salaries? They seem to think that all you have to do, is to place a man upon the bench, and fill his pockets

with money, and instantly he is endowed with the virtues of Jacob and the wisdom of Solomon. It is a great error to suppose that we must pay high salaries, or else we must do without good judges. These high salaries are unsuited to the condition of the country. Can we expect, or is it necessary, to get better talents than are secured in our sister States? Where do gentlemen carry us, to show that we ought to pay exorbitant salaries? To England. We have been told, that in England the lord high chancellor gets ten thousand pounds sterling—about fifty thousand dollars—per annum. Are we to go to England for examples? Why not go to the confederated States of the Union? Why go to England? I object to it. No man has a greater respect for the people of England than I have, but I draw a material distinction between the people and the government of that country. Every thing connected with her government depends upon show and pageantry. It seems necessary that there should be pomp and glitter to dazzle the eyes of the people, and to make the incumbents of office respected. I object to following in the footsteps of England, but I will appeal to the governments of this country, and ask if there is a single judicial functionary in any of the States of the Union, receiving the exorbitant salaries advocated on this floor. Let us look at the fact: In Maine, the judges of the supreme court receive one thousand eight hundred dollars per annum; in New Hampshire, one thousand four hundred dollars; in Vermont, one thousand three hundred and seventy-five dollars; in Massachusetts, three thousand dollars; in Rhode Island, six hundred and fifty dollars; in Connecticut, one thousand one hundred dollars; in New York, three thousand dollars; in New Jersey, one thousand five hundred dollars; in Pennsylvania, two thousand four hundred dollars; in Maryland, two thousand two hundred dollars; in Virginia, two thousand five hundred dollars; in South Carolina, three thousand dollars; in Georgia, two thousand one hundred dollars; in Alabama, two thousand two hundred and fifty dollars; in Mississippi, three thousand dollars; in Arkansas, one thousand eight hundred dollars; in Kentucky, one thousand five hundred dollars; in Ohio one thousand five hundred dollars; in Michigan, one thousand six hundred dollars; in Missouri, one thousand one hundred dollars.

New York is one of the few States where the salary allowed to the judges of the supreme court, is three thousand dollars. There are on the bench of that State three judges; making only nine thousand dollars for the expense of that tribunal. New York has a population as large as that of the thirteen confederated States during the revolutionary war. She has immense wealth and resources and yet she pays but three thousand dollars to each of the judges of her supreme court, while we are called upon to allow seven thousand dollars and to appoint four judges, making a total of twenty-eight thousand dollars for what costs in the State of New York but nine thousand dollars. And yet Louisiana is but a small and insignificant State in point of wealth and population as compared with the great empire State of New York and her resources are infinitely less. But this is not all. The judges of the supreme court of the United States receive a salary of but four thousand five hundred dollars, the chief Justice receives five thousand dollars. Will it be pretended that it is inadequate, when it has secured the services of such men as Marshall, Taney and Story? Will it be pretended that it is inadequate in Louisiana, and that the services of any judges that we can get in Louisiada, are worth more than the services of those distinguished men? Gentleman have nothing to proceed upon. Their apprehensions are illusory and there is nothing to justify such extravagance.

A delegate from New Orleans (Mr. Conrad,) has said that there are no complaints against allowing judges the high salaries claimed for them on this floor, he says, that he has never seen a man, who has seen a man, that complained of these salaries. I do not know how it may be in New Orleans. I can very well supppose from the inflated ideas that I have heard of the value of professional services in the city, that there are no complaints, and I am ready to take the statement of the delegate, as applying to the city. In reference to the country I know that there are general complaints. The people of the country expect a reduction of salaries indispensable to a reduction of the burthens of taxation;

and if retrenchment begins, they expect it to begin with the judiciary. We have been sent here to correct abuses, not to add to them. The people expect us to begin the work of retrenchment and economy. They expect a new order of things; that profligacy and extravagance in the public expenditures should be arrested. They can see no good reason why our judges and other officers should receive higher salaries than are allowed to similar officers, in our sister States. We are not a wealthy people, and yet gentlemen are not satisfied that we pay more than double, upon the average, than is paid by any State in the Union, be her population and resources what they may. They insist upon our increasing the public expenditure. If the salaries allowed by the Convention of 1812 have given great dissatisfaction, how can gentlemen expect that the people will submit to further exactions. It does not become the simplicity and economy of a republican government to pay exorbitant salaries to its public officers. It may suit the splendid government of England, but not a simple and unpretending government like this. It is not in keeping with republican institutions.

I shall vote to give the chief justice of our supreme court five thousand dollars and the associate judges four thousand five hundred dollars. This is precisely what is allowed to the judges of the supreme court of the United States, and is more than is allowed by any State in the Union. I think it quite sufficient to give efficiency to the system, and no body can accuse of us of being niggardly and penurious. in the payment of salaries like these.

Mr. Soule had a few observations to make. He had not intended to have raised his voice, from motives which would no doubt be appreciated. But he was relieved from any delicacy he may have felt by the anathema, or he might rather call it the denunciation of incapacity which had been pronounced against him by his friend from Jefferson, (Mr. Preston). He was therefore disinterested, taking it for granted that he would ever be unfit to be a judge, and was disconnected with any salary that may be connected with the office.

He had been among the most fervent opponents of the life-tenure to the judicial office. He had recorded his vote to fix the term of service of the judges of the highest tribunal at eight years. In so doing, his object was to submit the judiciary to the control of the people—that as servants of the people they should be responsible to the people for their continuance in office. We have obtained in this a great point, and he conceived that the constituency would be satisfied. We have made the judiciary effective, and we have preserved its independence and dignity. It would be but poor economy, for a few thousand dollars, to deprive the State of an unrestricted choice. He was willing to concede to the delegate from Jefferson, (Mr. Preston) that men of the most brilliant talents were not perhaps the best qualified to fill the office of judge; it might be as that delegate had assumed, and he was ready to admit that in men of less brilliant endowments, as sound judgments might be found as in those of greater brilliancy. But be that as it may, humble as may be the pretensions of the individual selected to be judge, and which after all was a question devolving upon executive responsibility, the incumbent, whoever he may be, ought to have his existence secured beyond the reach of want. He ought to be enabled to look forward for the support of his family when his term of office shall expire. He should be placed in a position to meet the contingency of a removal. His re-appointment, it is true, is possible, but it depends upon the will, if not upon the caprice of the governor and the senate. If you place the salary at six thousand dollars, and compute the necessary expenses of the judge with the utmost economy, little will remain at the end of the year to be put aside. Not that he should live like a nabob, but that he should live like a gentleman and be considered such.

I agree, said Mr. Soulè, with the delegate from Rapides, (Mr. Brent) that in other States, the salaries of judges are inferior to those allowed in this State. If the judges in Louisiana could be placed in the same position with reference to the relative value of their salaries as the judges elsewhere, I would join my friend and colleague from Rapides, in allowing them the same amount of salary. I would ask it of the candor of the gentleman, whether, with six thousand dollars, a judge in Louisiana can better provide for his

wants, who is under the necessity of residing eight months in the year in the city of New Orleans, than a judge who receives three thousand dollars in New York for his services? My own opinion is in the negative. There is not a State nor a city in the Union as expensive for living as Louisiana and New Orleans. It is known that a man with a family living in decent style, cannot expend less than four thousand dollars per annum. If you add to these necessary expenses for a limited family, the expenses for making a circuit, five hundred dollars, the amount will be four thousand five hundred dollars; and assuming this to be but a reasonable estimate, there would be but five hundred dollars economised during the year. Can you expect men of talents, of a high judicial station for so small an amount as that. I do not wish the office to be accepted on account of the high salary attached to it. That is not the question. If you are bound to compensate your judges, give them a reasonable and just compensation.

The gentleman from Rapides (Mr. Brent) has asserted that two of the judges of the supreme court have made a considerable fortune. One of them, and I presume he refers to Chief Justice Martin, has amassed, he says, a fortune of half a million of dollars, without inquiring how he became possessed of this amount; but all who know the man will admit that it was by all honorable means, we may ask the question, how is it possible that he could have realized so large a fortune? He has been judge for thirty or thirty-two years, and the total amount of his salary for that period would be one hundred and sixty thousand dollars.

Mr. Brent: what becomes of the compound interest.

Mr. Soule: I will come to that presently. The gentleman alluded to is not a shaver. In the hardest times he has been a generous lender, and has invariably refused to take usurious interest. But admitting that he had placed his money at compound interest, it would be difficult for him to have thus placed all his salary, for he must have expended some of it for his support, and he must have incurred some losses; so that at the rate of ten per cent. it never could amount to half a million of dollars. How many judges are there who hold their offices for thirty-two years? We may conclude that the surmise is idle and the hypothesis not presumable, that a judge with six or eight thousand dollars salary will acquire a fortune with the tenure of office limited to eight years. To enable us to make the choice of capable men, who will accept of the arduous duties of judge, we must attach an appropriate salary to the office. As to the fees derived by members of the bar, whose services are in demand, that has nothing to do with the salary to be allowed the judges. I may, however, remark that a salary of six thousand dollars will not prove a great temptation to the bar of New Orleans; few will accept the office with that salary in the city, and the bar of the city will not be in the way of the distinguished lawyers of the country. We have made the experiment in the last four or five years, and have found but few persons willing to accept the office. Of those who accepted, two withdrew and could not be prevailed upon to return. Of the five thousand dollars paid to each of the judges, the city of New Orleans and the surrounding parishes pay one-half. The salary has never been considered excessive in this part of the country. On the contrary, it has been considered too little. Elsewhere there may have been complaints, and I have no doubt of the fact, the moment I heard it from so respectable a source as the gentleman from Rapides. Suppose we do economise some three thousand dollars, and to do this we run the risk of getting incompetent persons, what is that amount when distributed all over the State. To the tax payers it will be of little consequence. A moment's reflection will show that it is of but little import to the people in reference to their taxation, while it is of the highest importance to the administration of justice throughout the State. I think, therefore, that the most rigid economist should be satisfied with restricting the salary of the chief justice to six thousand dollars, and each of the associate judges to five thousand five hundred dollars.

Mr. Marigny: the honorable gentleman from Rapides (Mr. Brent) has taken the trouble to make a comparative statement, showing what is paid by the several States of the Union to their supreme judges, and he attaches great weight to the fact that in

New York, but thirty-five hundred dollars are allowed to the judges of the supreme court. But the gentleman ought to have told us, the causes of this difference, and then, perhaps he would have been less ready in his deductions. There are in the States which he has named, more lawyers than in the state of Louisiana, and the practice of a lawyer in those States is worth less. Scarcely the most eminent counsel make an income of more than from three to four thousand dollars per annum, and there is nothing remarkable in their accepting the office of judge for life, with a salary of three thousand five hundred dollars. Mr. Webster was satisfied with a fee of five hundred dollars, when counsel in the State for the same cause, obtained one hundred and thirty thousand dollars. Inasmuch as lawyers obtained higher fees in Louisiana than elsewhere, and inasmuch as the expenses of living are much greater, it is plain that the salaries of judicial officers must bear a relative proportion with the value of services at the bar.

The gentleman from Jefferson (Mr. Preston) really astonishes me by the flights of his imagination. I really believe that if he had his way he would create the government in the regions of the clouds. He has favored us with a criticism upon talent, and thinks that the most competent person to be appointed judge is he who is the most obscure, and has the smallest share of abilities for the profession of the law. The man who was starving at his profession, would make, according to his logic, the best judge.

How is it that he cannot discover the dilemma in which he is placed by his mania for economy, and for placing the offices of the country at the disposition of the lowest bidder; either the attorney of whom he speaks, is an honest man, or is not an honest man. If he be an honest man, he will not accept an office for which he knows he is incompetent; and if he is not an honest man, how can his presumption justify the theory of the gentleman from Jefferson. I sincerely hope that sound reason will prevail over propositions which have no other effect than to compromit the dignity of the judiciary, and the interest of the public. The Convention cannot double, nay triple, the business of the judges of the supreme court, on the one hand, and on the other refuse to give them a suitable compensation. It is composed, in a great measure, of delegates whose consituents pay three-fourths of the amount which is annually contributed to the treasury of the State, and it is to be presumed that the majority will consent less from courtesy than from a desire to fulfil a sacred obligation, to protect the rights of property in our courts of justice. Where shall we, in fact, place the guarantees for property, if after establishing the executive and the legislative departments upon the unqualified rights of suffrage, we do not consecrate a place of refuge for property in the temple of justice.

The Convention in 1812, prepared a constitution, of which ours has neither the merit nor the wisdom which prescribed that the judiciary should be in possession of entire independence; and as one of the means to effect that purpose, it provided that each of the judges of the supreme court should receive a salary of five thousand dollars per annum; a sum which is equal to ten thousand dollars at the present day. The consequence has been that we have had one of the most distinguished tribunals throughout the country. But it may be told that it is not the salary that makes the merit of the man who may fill the seat. That I readily grant, but it is evident that unless you allow a reasonable compensation, no man of any standing will accept the appointment. I caution the majority of the Convention to beware. If property holders find that there is no protection for the stable interest of the country, you may rely upon it they will vote for the rejection of your constitution, and in so doing, they will treat it as it deserves.

Mr. Downs said he did not intend to make a speech, but to give briefly the reasons which would actuate his course upon this occasion. He would acknowledge at first, that he intended to have voted for allowing the same salary that is now accorded to the judges of the supreme court, by the constitution of 1812. After very matured deliberation, he had concluded, that inasmuch as the life tenure was reduced to eight years, six thousand dollars was not too much compensation. It should also be borne in mind, that a system of rotation will necessarily have to be established; the term of the judges first appointed will serve but to

four, six and eight years. I have not heard it stated that there has been general complaints throughout the State, against the salaries allowed to the judges of the supreme court, nor do I believe such to be the case. There has been a great feeling manifested in the public mind that the judiciary should be submitted to reform, and one of the objects deemed the most essential to reform, was to do away with the life-tenure of the judges, which precluded responsibility; and by restricting their terms of service to short periods, make them directly amenable to the public control. I do not think that the people will begrudge them a fair salary, and it is quite evident that six thousand dollars, where the office is limited to eight years, is in fact less than a salary of five thousand dollars for life. We have had, in addition to the supreme court, another court of appellate jurisdiction for criminal matters, at an expense of fifteen hundred dollars per annum. By the attribution of duties under the new constitution to the supreme court, the court of errors in criminal matters will be superseded, and these fifteen hundred dollars may well enough be added to the salaries of the supreme judges by the reduction of the number of the judges to four of that court, and allowing them the small increase which is asked, there will be still an economy for the State. We should also take into consideration the saving which will result in the expenses for the criminal jurisdiction; we shall find that we are considerable gainers by the change. The expenses for the criminal proceedings of the country have been very excessive. I recollect, when I was on a committee of the legislature, that the amount incurred for this branch of the public service, was sixty thousand dollars. I have no doubt that the average would range as high as one hundred thousand dollars. This amount could be reduced to one-half by an active and efficient administration, which is one of the principal results that we anticipate from the new system. The business will be rapidly and speedily done.

But what, after all, is the matter of controversy, at best. My friend from Rapides is willing to leave the salaries of the judges of the supreme court as it is fixed in the constitution of 1812; the amount involved is about two thousand five hundred dollars per annum, which, if distributed among all the people of the State, would require an additional contribution of about one cent a head—less than one cent. Well, in an object so desirable as to obtain competent and efficient judges, in whom the public confidence may be reposed, is that a matter of moment? But I may be told that in my calculation, poor persons, who do not contribute to the taxes of the country, are to be excluded. Making a liberal deduction for that class, I will put the estimate at ten cents a head, and I would ask if each tax payer would not prefer to make the sacrifice of so small an amount, to have an earnest that the judiciary would be elevated above want and above suspicion. What is ten cents? we give it for a glass of lemonade, or a glass of ice cream, and we think nothing of it.

It has always seemed to me that we do not fully appreciate the power of the supreme court; it is the most vast and uncontrollable branch of the judiciary. To it are submitted questions of law and fact, and its decisions are final. They are absolute. Even in England there is an appeal from the court of King's bench. So great is the power of our supreme court that at an early period of our political existence, one of the most distinguished legists, Mr. Livingston, having had cause to complain of the great injustice done to him in one of the decisions of that court, asked the intervention of the legislature, but they replied, and very properly, that the power resided in the judiciary, and that they had no right to interfere with that branch of the government. We may say what we please. Public opinion are in favor of the decrees of the court, and, conceived to be whatever is done by the judges is properly done; and therefore if a man be ruined by some inconsiderate judgment, the judges are no less placid nor less esteemed because they may have inflicted the grossest injustice. It is a mistake to suppose that it is only those who are involved in litigation that are interested in having an upright and efficient judiciary. Those who never have a suit, and are averse to litigation have a deep and abiding stake in the character and standing of the judiciary. Circumstances may arise which may involve them in law suits, and they will then feel the importance of having judges in whom they can repose their confidence; at any rate, it

is plain that the property-holders are those most deeply interested in the existence of an efficient judiciary: and inasmuch as they are disposed to tax themselves a little more in order to give such salaries as they think will conduce to the independence of the judges, those who contribute but little and have but little or no property involved, should not interfere.

Mr. Scott of Baton Rouge said that he rose merely to make a few observations. He did not concur with those who had argued that to get competent persons to fill the office of judge, it was essential to allow exorbitant salaries; salaries, which were disproportioned to the resources of the State, and to the means of the people. The fact was that the State paid higher salaries to her public officers, and her citizens contributed a larger share of taxation for the support of their local government, than any State in the Union. Gentlemen argued upon the assumption that Louisiana was a rich State, that her resources were without limitation. This is not the case; our State is poor, very poor, but if that even were not so, surely a higher compensation ought not to be asked than is accorded to the judges of the federal courts; to the judges of the supreme court. He concurred fully in the arguments of the delegate from Rapides (Mr. Brent.) If economy and retrenchment are to be observed, we should make no exceptions; begin as well with the judiciary as the other departments of the government. He could not vote for more than five thousand dollars.

The question was taken upon six thousand five hundred dollars for the chief justice, and the yeas and nays were called for; ayes 23 nays 32.

Mr. Benjamin said that inasmuch as there was so much difference of opinion, he would not insist, nor did he expect to carry his own views. But he would be willing to meet gentlemen who entertained contrary opinions to his own upon a compromise. The reasons which operated upon his mind, had on another occasion been expressed by the delegate from Jefferson, (Mr. Preston) which he would beg leave to read to the Convention. The arguments of that delegate were so conclusive as to dispense with the necessity of saying anything further on the subject.

Mr. Benjamin here read the extract referred to. He would propose five thousand to the chief justice, and six thousand five hunderd dollars to the associate justices.

Mr. Bent could see no necessity for allowing a larger salary to the judges of the supreme court, than were allowed to the judges of the supreme court of the United States. It would not surely be pretended that the State of Louisiana was richer than the United States.

Mr. Roselius could not but express surprise that any comparison should be made between the salaries allowed to our judges and to those allowed to the judges of the supreme court of the United States. The chief justice of the United States was not bound to reside in any particular place, nor was he bound to remain upon the bench from one end of the year to the other. He was only required to sit once a year for a period of three or four months. The expenses for living were much less in Baltimore and in its vicinity than in New Orleans. But he did not propose to enter into the argument, because it appeared that the minds of the majority were not to be effected by arguments, however strong they may be. I will simply remark in conformation of what fell from the delegate from Ouachita, (Mr. Downs,) that persons of wealth of large property, are disposed to contribute liberally in order to have an effective and irreproachable judiciary. I had a conversation upon this very subject with the wealthiest man in Louisiana. The man who pays the greatest amount of taxes to the treasury, and who is one of the most prudent of men; I allude to John McDonough whose immense fortune has been acquired by his thrift and industry. He pays ten thousand dollars of taxes into the treasury per annum. He took me by the hand and implored me for God's sake to do all I could to secure an effective judiciary. He considered that our lives, our property, and honor depended upon the judiciary. He thought that seven thousand dollars per annum, were not enough, and that we would not be able to find a capable judge, possessing all the necessary guarantees, under ten thousand dollars. Here is a man of immense wealth, ready to contribute his portion of the taxationf which is immense, to allow the judge ten thousand dollars. This opinion of Mr. McDonough

is concurred in by every man of property. Let me be permitted to make one solitary observation. The gentleman from Jefferson has argued upon the different classes of lawyers. He has placed in one of his categories of those unfit for the station of judge, men of powerful eloquence, and he took the liberty to designate my excellent friend and colleague (Mr. Soulé,) as one of these. In the other class, which he thinks the best qualified to be members of the judiciary, are persons of the least experience in the legal profession. Now let us call experience to our aid in resolving this matter: suppose any gentleman was involved in a serious charge, effecting his life or his honor, to whom would he apply for assistance and counsel. Would he apply to the cheap class of lawyers, those of no experience,and such as form the beau-ideal of my friend from Jefferson, (Mr. Preston) who would charge a fee of fifty dollars, or would he apply to the other class of lawyers, who for the identical same services charge him one thousand dollars. To whom would he go? Would he go to a lawyer who would charge him the same ratio as a tailor or a shoemaker for the manual labor performed. Or would he go to the lawyer whose eminent talents entitled him to a larger fee? A practice of seventeen years at the bar, authorizes me to say that in criminal as well as civil matter, suiters will apply to the most skilful lawyers, conceiving them the most able. If this be the general rule, and if individuals are disposed to pay liberally for talent,why should not the same thing exist in reference to the officers to be employed by the State. It is a bad argument to say that we must put up with mediocrity, and even less than mediocrity, for fear of impoverishing the treasury of the State.

Mr. Chinn said he was one of the oldest immigrants of the State. He was here before the promulgation of the constitution, and thought he was as familiar with public sentiments as any one. He could conscientiously declare, that he had never met with any one, either rich or poor, who considered the compensation now allowed exhorbitant. Moreover, any one who will reflect upon the subject calmly, must come to the conclusion, that we shall in the end be losers, by fixing the salaries of judges at an insufficient amount; for the inevitable consequence will be to place incompetent persons upon the bench, and bring the judiciary into disrepute.

Mr. C. M. Conrad whould make a few remarks. When the other departments of the government were under consideration, and when property was deprived of all guaranties, we were told by members who favored that course of proceeding, that we should find ample protection in the judiciary. But it seems that the changes in this department are not less radical than in the others. I may say they are more radical. We have reduced the life tenure of the judges of the highest tribunal to but eight years, and have subjected to periodical change, the whole judicial department. Is not this going as far as we should be expected to go? Ought there not to be some assurance, some guaranty, for the independence of the judiciary, and the judges be placed, not only beyond want, but beyond the suspicion of want? Those who contribute to the taxes of the country; those who have property at stake, know full well the value of an independent judiciary, and they are anxious to make sacrifices to obtain it; because it is essential to the possession and enjoyment of their property. The supreme court of the State pronounces upon a greater amount of property than all the other courts in the States of Georgia, South Carolina, and Virginia. The accumulation of legal business in that tribunal is immense. A great portion of the legal business of the other States, upon attachments, finds its way into that court, and has to be settled there. We have been referred to the salary of the judges of the supreme court for a precedent. There is no analogy. The office of chief justice of the supreme court of the United States is one of the highest. It may be said to be next to that of the President, and it is sought for in reference to the distinction. The salary was fixed at the inception of our government, and it has remained as a matter of course, ever since. But it has been deemed to be totally disproportioned with the importance and the dignity of the office. We have increased the labors of our supreme court, and I really consider that six thousand dollars is less salary for eight years, than five thousand dollars under the old constitution.

The question was then taken upon Mr.

Benjamin's motion, and it was carried—ayes 29, nays 27.

The question recurring on the salary of the associate judges,

Mr. Dunn said he could not see why there should be any distinction between the salaries. The duties of the associate judges are the same as those of the chief justice. He moved to allow them the same compensation.

Mr. Humble said he was opposed to making any distinction between the judges; but he thought six thousand dollars was too much.

The ayes and nays were called for upon Mr. Dunn's motion—ayes 24, nays 30.

Mr. Claiborne moved to fix the salaries of the sasociate judges at five thousand five hundred dollars. With that view he had voted with the majority on the last question.

Mr. Rosalius said he would vote in the affirmative; but he considered that amount by no means an adequate compensation for good judges.

The ayes and nays were called for on Mr. Conrad's motion—ayes 29, nays 27.

Mr. Brent gave notice that he would move for the reconsideration of this vote. It would cause a great deal of dissatisfaction among the people.

Mr. Barigny gave notice that he would move for a reconsideration of the vote allowing seven thousand dollars to the chief justice of the supreme court, as he was convinced that a majority of the people, and of the convention, were in favor of a proper remuneration for the members of the judiciary.

Mr. O'Bryan moved to strike out the words "nominated by the governor," and to substitute the words "elected by the people."

Mr. Conrad moved to lay this motion on the table, subject to call.

Mr. Miles Taylor said he was opposed to the election of the judges, especially of the supreme court. This was the first time that the proposition to elect the judges had been made, and he was reluctant to stifle discussion; he would therefore vote against the motion to lay on the table, inasmuch as it would effectually cut off debate.

Mr. Saunders would vote no, for the same reason.

The ayes and nays were called for—36 ayes, 20 nays.

Mr. Soule moved, as a substitute for the balance of the section, to come in before the words "the said judges," the following:

The power of nomination, so far as relates to judges, shall be exercised by the governor, in the following manner: The governor shall designate, and present to the senate, three capable persons, versed in the laws, and who shall have practiced at least five years in the courts of the State, for all judicial offices; and the senate shall proceed to select one from the three persons thus designated and presented, and shall vote upon said selection *viva voce*, and with open doors, provided, that no nomination shall be approved without the concurrence of a majority of all the members composing the senate; and provided, moreover, that the judge whose term of office may expire, shall be one of the three persons presented by the governor for the choice of the senate. After three unsuccessful ballottings to make a choice, it shall be the duty of the governor to designate and present three other persons, and successively to present the same number, until a choice may have been effected.

Mr. Soule said that the question would be on the striking out.

Mr. Guion thought it was not necessary to strike out. We could adopt the section, and the discussion upon the proposition would come up more appropriately in another place.

Mr. Soule: I yield very willingly.

Mr. Peets moved that the judges be elected by the two houses of the legislature, on joint ballot.

Mr. Preston moved to amend that portion of the original section, relative to clerks, by prescribing that they should not be related by blood or marriage, to either of the judges.

Mr. Beatty thought that if this amendment were to prevail, it ought to be restricted some reasonable degree.

Mr. Roselius said that he objected to so sweeping a clause. Moreover, he was a firm believer in the Bible; and as we were all descended from Adam, we were thereall relations.

Mr. C. M. Conrad said that some restriction, at any rate, was necessary, upon

this provision, in a country where we were so much interfixed by marriages.

Mr. Beatty suggested the fourth degree.

Mr. Chinn proposed an amendment. He was averse to the provision; thinking it worse than useless, if not ridiculous. But to give it a more determinate character, he would propose that the exclusion should only apply to the son, brother, and son-in-law of either of the judges.

Mr. Eustis would submit one or two observations. In a country where relations of families were so extended, it was almost impossible that some one of the judges should not be related, in some way, to a person who might be very competent to fill the office of clerk. Consequently the proposition of the delegate from Jefferson (Mr. Preston) would operate as an exclusion of the residents of the country, and in favor of strangers. Moreover, it was casting a stigma upon the honor and disinterestedness of the judges, to restrict them in that way. If you can't trust your judges, to whom you confide the most important of your interests, to appoint a clerk, why, take away the power, and place it some where else. If that be the sense of the convention, I say let it be done. It is infinitely better than this proposition.

Mr. Brent was in favor of the adoption of the proposition. He thought the judges might abuse the discretionary power. In one district, to his knowledge, a clerk was imported from another district and appointed, because he was the brother-in-law of one of the judges, and the son-in-law of another. There were men in the district more competent to fill the office. He was in favor of incorporating this provision in the constitution, because he thought the judges would abuse the power. It was not necessary to fix the degree of relationship; if it could be traced, the individual ought to be excluded from receiving the appointment. The code of practice made it a good ground to excuse the judge, if he was related to either of the parties. He could see no good reason why the proposition should not prevail.

Mr. Roselius responded that he could see nothing wrong in a judge appointing one of his relations, provided he had the necessary capacities, and was worthy of the public confidence. We have two striking examples that such appointments have given universal satisfaction. Judge Lewis appointed one of his sons clerk of the district court, and he has proved a most efficient officer, and has won the esteem of the entire community. Judge Pitot did the same thing in relation to the parish court, and the same remark will apply to that gentleman. He has also proved a most excellent officer. As for the abuse of the power, none such has ever yet come under my observation. On the contrary, I am aware that at the death of Mr. Cuvillier, clerk of the supreme court, his deputy was appointed, unanimously, by the judges, although there were among the candidates, several relations of the judges. At any rate, this clause may be regarded as unconstitutional, since it excludes a portion of the community from holding an office, upon no other ground than because they happen to be related to one of the judges; no matter how remote the relationship may be.

Mr. C. M. Conrad thought this was discussing upon a very small matter. We did not think fit to place a similar restriction upon the executive power. Why should we place it upon the judicial power? What harm, or evil is there in the governor, or in the judge, appointing one of his relations to office, provided he be capable and honest. Even the great Washington, himself, the father of his country, appointed his nephew a judge of the supreme court of the United States. This was one of the best appointments that was ever made; for Bushrod Washington was one of the very ablest judges that have graced that bench. The only question in which the community are interested, is as to the capacity of the clerk. It is a matter of no moment to them, if he be capable, and efficient, whether he be related to one of the judges or not. As it is not presumable that any person who may become an applicant for clerk, will be related to all the judges, or even a majority of them, it is not likely that any one will be appointed solely with reference to the accident of consanguinity. For the convention to attempt to legislate upon such a subject, appeared to him to be idle; he was almost going to say, ridiculous.

Mr. Preston said that this might appear to be a very small matter, and I should not have proposed it had I anticipated so

much debate. Nevertheless I think it expedient, and I shall press it upon the consideration of the Convention, because I am convinced that if it depends upon the legislature, and I draw my inference from the past, nothing will be done. The fact related by the delegate from Rapides (Mr. Brent) is entitled to some weight in consideration of this matter. I admit that the two appointments mentioned by the delegate from New Orleans were most excellent; but this proves nothing, and the reverse might just as well have been the result. I think that the interest of the whole community demand that there should not be a concentration of offices in one and the same family. Is it not enough that one of the family should be appointed to the office of judge, without leaving it optional with him to fill all the subordinate stations with his sons, nephews and brothers? Suppose for a moment, that a clerk neglects his duties, and that he is the son of the judge; how is an attorney to bring the dereliction to the notice of the judge, and how is the latter to judge impartially in the case, or to take the necessary measures to have his son removed if it be necessary? It is altogether out of the question. I should feel great reluctance to bring such a matter before the attention of the judge. In such cases it is better to follow the Lord's prayer, "lead us not into temptation but deliver us from evil."

Mr. Sellers called for the previous question, which was ordered, and the question recurring on the adoption of Mr. Preston's proposition, it was lost—yeas 13, nays 40.

Mr. Brent then moved that the section be laid upon the table, together with the amendment offered by Mr. Peets for the election of judges by the legislature on joint ballot; and the proposition of Mr. O'Bryan that they be elected by the legally qualified voters, stating that it was his intention to address the Convention in favor of the latter proposition.

Mr. Beatty proposed the following additional section, viz:

At the first appointment of judges of the supreme court under this constitution, the chief justice shall be appointed for eight years, one of the associate judges shall be appointed for six years, one for four years, and one for two years; and in case of the death, resignation or removal of any one of said judges, his successor shall be appointed only to fill out the remainder of the term, so that the time of service of none of said judges shall expire at the same time.

Mr. Marigny was averse to appointing said judges for two, four and six years. He thought they should be appointed for eight years, to give stability to the decisions, and to settle, at least for eight years at a time, what would be the law. Another inconvenience would result, and that would be, that no man of talents and standing would accept of the office for so limited a period.

Mr. Benjamin explained to his colleague that it was indispensable to establish this system of rotation, and that the probabilities were in favor of the re-appointment of the incumbents. If they were all to go out at the expiration of eight years, the change would be too great and sudden, and the jurisprudence of the country would be subjected to violent innovations.

Mr. Marigny responded that he fully understood the question, and he thought his objection a valid one.

The question was taken on Mr. Beatty's proposition, and the yeas and nays were called for—yeas 45, nays 9.

The Convention then took up section fourth, as follows:

Sec. 4. The supreme court shall hold its sessions in the city of New Orleans, from the month of November to the month of June inclusive. The legislature shall have power to fix the sessions elsewhere, during the rest of the year. Until otherwise provided, the sessions shall be held in New Orleans.

Mr. Lewis moved to amend by striking out the words "in New Orleans," and substituting "as heretofore."

Mr. Roselius stated that it was the desire of several members of the judiciary committee, that the sessions of the supreme court shall be held entirely in the city of New Orleans. A great deal of time was lost to the court in travelling from parish to parish, and it was very difficult for the judges to obtain access to the necessary books which they needed in the examination of cases, out of the city. In several of the States, the supreme court was per-

manently located at the seat of government.

Mr. GARRETT said that the arrangement heretofore had was excessively inconvenient. The court was held at Alexandria, at a sickly season of the year, and there was greater inconvenience in going to that place, than coming to the city of New Orleans. For persons residing in his section of the country, this was especially the case; they had to ride a considerable distance, and were illy prepared to carry along the books to which they intended to refer. He thought it best to leave the discretion with the legislature, to hold the sessions of the court elsewhere than in New Orleans, as they should think most expedient hereafter.

Mr. BRENT was opposed to any thing of the kind. He had no objections to the people of the Ouachita district bringing their appeals to the city if they thought proper; but he wished for the convenience of his constituents that the sessions of the supreme court should be held at Alexandria, as heretofore. He would therefore sustain the motion of the delegate from St. Landry, (Mr. Lewis). The yellow fever prevailed at New Orleans at the period when the supreme court held its sessions at Alexandria and Opelousas; and if the court did not avail itself of that period to visit the country, these four months would be lost.

Mr. DOWNS said that it was excessively inconvenient for persons residing in his section of the country, to attend the sessions of the supreme court at Alexandria. It was preferable that their appeals should be brought to the city of New Orleans. He remembered that when he was a resident of the Florida parishes, he was very anxious, with many others, to obtain an annual session of the supreme court there. The attempt succeeded, and the court was required by law to meet in the town of Baton Rouge. It was found upon experience not to answer, and ever since the appeals from Florida have been brought to the city. It was much better to hold the sessions in the city, and that fact was evidenced by greater weight being attached to the city decisions than were attached to the country decisions. The latter usually were made in great haste and with little research, and under the utmost anxiety of body and of mind.

Mr. SELLERS confirmed the remarks of Mr. Downs. Legal men in his section of the country were in favor of bringing the appeals to the city, on the score of greater convenience.

Mr. PORTER thought that the supreme court should hold its sessions at the seat of government; and inasmuch as the sense of the people had pronounced against the city of New Orleans for the seat of government, wherever that seat of government were permanently located, that would be the proper place for the sittings of the supreme court. He would propose a provision to that effect.

Mr. ROSELIUS referred to the remarks of the delegate from Ouachita, (Mr. Downs) to overthrow the novel proposition of the delegate from Caddo. Where, I would ask the delegate, is the seat of government as yet established? The Convention have determined that it shall not be located within sixty miles of the city. But let it be located where it may, the city of New Orleans will nevertheless remain, as heretofore, the heart and centre of the State. It is within her limits that the business of the State must be done; and it is through her that the agriculture of the State must be converted into capital. Four-fifths of the suits before the supreme court are from the city. It is here where the most direct and ready conveyance to every portion of the State is to be had; where almost every public enterprise has its origin. It is out of the question to think of carrying the supreme court from the greater portion of the very business which it was established to prosecute.

Mr. CONRAD of Orleans, could not believe that the gentleman from Caddo was in earnest; his proposition must certainly be intended for a jest.

Mr. PORTER said that the gentleman (Mr. Conrad) would find out that he was serious. When the question of the salaries of the judges was under consideration, it was assumed by that gentleman, and by some of the city delegation, that a large salary was necessary, in order to enable the judges to reside in the city, and that a great deal was spent in their travelling in the country parishes. Now it

is proposed to locate the court in the city of New Orleans, in opposition to the above arguments. Thus the State is expected to lose four months, for it is notorious that for four months in the year the epedemic prevails in the city, and the court must stand adjourned. But we are told that there are no libraries in the country. This is identically the same language that we heard at Jackson, when it was deemed expedient to transport the Convention to this city. We were to come here for books and maps. In my turn, I would ask the gentleman if he is serious? So far from thinking that we have gained any thing by the change from Jackson to the city of New Orleans, I really believe that we would have made a better constitution there than we have made here, at any rate we would have completed our task before this time; and the constitution, ere this, would have been before the people.

Mr. Porter said if the courts were held four months in the year in the country as formerly, in Opelousas and Alexandria, it would be more convenient to his section of country, and he would not press the matter farther, otherwise he would insist on it.

Mr. Conrad said that at first he thought the delegate from Caddo was jesting; but the gravity of his countenance since, had convinced him that such was not the case, and that the delegate was serious in the design of transporting the supreme court to Baton Rouge or Donaldsonville. Four-fifths of the whole business of the State, arising in the city of New Orleans, is to be carried, if that delegate has his way, some one or two hundred miles from the city; and the members of the bar of the city are to be exposed to the necessity of making a voyage from day to day to attend to their cases!

The gentleman has accused me of inconsistency in speaking of the travelling expenses of the judges. Now, if the gentleman had examined the position I took, he would have seen that there was no inconsistency in it. I supported the motion of the delegate from St. Landry (Mr. Lewis), that the supreme court should continue to hold its sessions at Alexandria and Opelousas; because I considered that necessarily there would be a vacation of four months in the city, and that it would be impossible to get through with all the business unless these four months were made available to the country. I am not now a practising lawyer, but I remember when I was at the bar, the appeal cases from Florida interfered for two or three weeks with the business of the city, and monopolized the court exclusively.

Mr. Eustis said that this section had been adopted by the committee after a full consultation. It was suggested by members of the bar from the country, who were the best informed; and after all it was a matter resting chiefly on the convenience of members of the bar. For thirty-two years the constitution had fixed the duration of the sessions of the supreme court in the city of New Orleans. This was indispensable; now as to the question of holding sessions of the supreme court in the country, that was a question for the legislature to resolve. He would call for the previous question.

Mr. Mayo proposed the following amendment:

That appeals from the parishes of Jackson, Union, Morehouse, Caldwell, Ouachita, Catahoula, Franklin, Carroll, Madison, Tensas and Concordia, should, until otherwise directed, be carried to the city of New Orleans.

Mr. Eustis: This is legislation, and should find no place in the constitution.

Mr. Preston moved that the amendments and the section be laid upon the table until to-morrow. He had a proposition to submit upon the subject.

Whereupon the Convention adjourned.

Tuesday, April 22, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer from the honorable Mr. Stephens.

Mr. Humble gave notice that he would move a reconsideration of the vote depriving members of their mileage. Also, that he would move to reconsider the vote upon establishing the seat of government, with a view of moving that it be located permanently in the constitution.

Mr. Waddill said that this was a day fixed for taking into consideration the resolution presented by him. He would move to modify it, by accepting such offices filled by the election of the people, so that it would read—no member of this Conven-

tion shall be eligible to any office created by this constitution, until two years shall have elapsed from the date of its approval by the people, unless it be to such offices as are elective by the people.

Mr. Lewis thought this resolution was treating the good people of the State very cavalierly. They were the best judges of those best calculated to serve them. At any rate, it was not in order.

Mr. Waddill said that resolutions which had no direct relation to the order of the day, had been presented from time to time. He instanced the proposition of Messrs. Chinn and Marigny on the subject of duelling. On various occasions, other important propositions had been submitted, and he found it somewhat strange that the delegate from St. Landry should make that objection to his proposition. I think (added Mr. Waddill) that the Convention should place themselves beyond suspicion; that they should show by their acts, that they are not struggling for the loaves and fishes. He hoped that the provision would be adopted.

Mr. Sellers moved that it be laid indefinitely on the table, and Mr. Waddill called for the yeas and nays; yeas 32, nays 15.

ORDER OF THE DAY.

The Convention resumed the consideration of the clause relative to the sessions of the supreme court, under consideration at the adjournment, yesterday.

The question pending was on Mr. Lewis' motion to strike out "in New Orleans," and insert "as heretofore."

Mr. Splane asked permission to make a few explanations.

The Chair said that under the rule, it could not be permitted. The previous question cut off all debate.

The yeas and nays were called for.

Mr. Lewis said it was not usual for him to assign reasons for his vote, but on this ocsasion, he would do so. He voted yes, because it would be depriving the section of country which he represented, from the advantages resulting from the establishment of that court, and it would be an act of manifest injustice to do so.

The question was decided in the affirmative—yeas 28, nays 23.

Mr. Splane gave notice that he would ask for a re-consideration on Thursday next. He hoped that he would have the opportunity of expressing his opinions upon the subject.

Mr. Brent: I will willingly give the gentleman the opportunity he desires.

The question then recurred on the adoption of Mr. Mayo's provision.

Messrs. Briant and Splane severally moved to add to the foregoing parishes the parishes of St. Martin and St. Mary, but subsequently withdrew their propositions.

Mr. Mayo moved for the adoption, which motion prevailed.

Mr. Mayo then moved to amend the section further, by striking out "June," and substituting "July;" which motion prevailed.

Mr. Benjamin moved to strike out in the second line, the word "month," and insert "first Monday of;" which was concurred in.

Mr. Preston then submitted the following as a substitute, viz:

"The State shall be divided into four districts, and for each district a judge of the supreme court shall be appointed. The said judge shall hold a court twice a year in each of the parishes comprised in his district, and he shall then decide upon all appeals that may be brought before him from the inferior courts. If he affirm the decision of the first court, the judgment shall be final. If he disagree with the first judge, the case shall be immediately transferred to the supreme court in the city of New Orleans, composed of all the said judges of said court. It shall begin its sessions on the first Monday of January, and shall sit until it has disposed of all the appeals pending before it.

The yeas and nays were called for—yeas 37, nays 12.

Mr. O'Bryan moved to strike out the words "during the rest of the year." The motion was lost—yeas 22, nays 29. The section was then adopted.

On motion of Mr. Brent, the Convention resumed the consideration of section three.

Mr. Brent moved to amend said section by substituting the following:

"The State shall be divided into four districts, each of which shall be designated by its respective number, and the duly qualified electors of each district shall choose one of said judges; the choice o

chief justice shall be made by the electors of the first district."

Mr. READ said: I rise, Mr. President, for the purpose of putting the elective ball in motion, hoping that others will keep it rolling, until all opposition shall be overcome.

It seems to me that our judiciary system needs a thorough revision, and that a fear of diverging from the beaten track, along which public opinion has heretofore erected its guide-boards, with stationary fingers, pointing continually to the same spot and to the same end, should not deter us from being pioneers in the great cause of improvement, the very object of our assemblage, and not merely to drag ourselves from post to post, to reach the goal which others have. Innovation of established usages and customs, remoddelling with a bold hand the laws of a country, or departure from the nursery of maxims, sanctified by time and association, induces no pernicious consequences when the actuating motive is the zeal of philanthrophy and the love of country.

An elective judiciary is "nothing new under the sun," though it strikes many with amazement and horror. There is a kind of unaccountable sanctity enveloping the judicial ermine, as moss covers the time beaten temples of antiquity; but when stript of superstitious veneration, it stands out as the rude creation of man—the workmanship of a noble, yet fallible creature.

It is no sacrilege to approach this subject in a republican and an independent spirit, which, God grant, may continue in our deliberations. Nay, on the contrary, my colleagues and myself have been instructed by a voice that will admit of no excuse, to enter the great judicial tabernacle and make it accessible to the people. They want to know their priest—they want a voice in his promotion.

I am actuated by no spirit if reckless innovation in advocating the election of judges by the people, but by a desire to secure the greatest good to the greatest number; by a desire commensurate with the welfare of the whole people. In a republican government, *vox populi vox dei*, so far at least as the selection of officers is concerned. I am aware that there are those who worship idols because their fathers did before them; and who, if they knew the right, the wrong would pursue, in order to smother the irrepressible disposition to freedom which exists in the hearts of the people. There are those who have the boldness and temerity to avow that the legislature is superior to the people; that the creature is greater than the creator; and the records of this Convention will show that there are some such in our midst, even in this age of sense and progressive improvement. To men of such distorted vision, it is not strange that an elective judiciary is a hideous monster, without shape or comeliness. But I trust that all here are sincerely desirous of becoming benefactors, and that they will examine cooly and dispassionately all questions connected with the governmental policy of the State.

I assert without fear of successful contradiction, that our judiciary has become one of the most corrupt and irresponsible bodies of civil organization, and it is high time to cleanse the Augean stables, by turning another Alpheus through the filthy apartments, to restrain their untoward career, by letting the voice of the people declare, "thus far shalt thou go, but no farther."

To those who dare maintain the *incapacity* of the people to elect their officers, *all* their officers, I say, in the utmost charity and good feeling, go home to your insulted constituents, and they will settle accounts with you. And to those who doubt the *honesty* of the people, I say, beware of the just reproach and condemnation which awaits your avowal of such flagrant injustice.

I look around and see in this body learning, talent and honesty, and who was it that had the ability to make such a selection—a selection of men to whom the weightiest matters of State are confided, and upon whose decision hangs the weal or woe of thousands now existing, and yet unborn? The people, that people who are the scoff, but dread, of tyrants.

I daily see men, wise in legislation, dispensing the blessings of peace and harmony, the lights of science, and the benefactions of wholesome laws; who selected these from the great mass? The people! the people! I see the humble citizen make choice of his lawyer, his physician, his architect, his mechanic, his overseer, his

agent for the transaction of all kinds of business, and yet I am gravely told that he is incompetent to deposit his vote for a judge. I see the culprit at the bar of justice; his life is jeopardized; all depends on the skill and adroitness of counsel; he chooses his attorney, and chooses well; and shall I be told that this individual, degraded as he may be, is not and never was capable of naming a judge to try the rights of property. It is an absurdity, involving ability where life is at stake, but inability where a paltry sum of money is concerned.

As men become enlightened they are driven to the truth. The ancients imagined the sun revolved around this little globe, but science taught another lesson. The moderns have advocated as great an error in principle, by elevating certain officers beyond the voice or control of the people, when these very officers are really the creatures and servants of the people, and properly amenable to them for all misfeasances, non-feasances and mal-feasances. Abandon republicanism, or burst the fetters which bear the rust of ages and the smell of despotism. The doctrine of a non-elective judiciary well suits kings, thrones and potentates, but it cannot consistently be urged or sustained in a land of liberty; a land where the foot-prints of aristocracy should never be seen.

Listen to the sage of Monticello on this interesting and important subject; he says: "It has been thought that people are not competent electors of judges learned in the law; but I do not know that this is true, and if doubtful, we should follow principle. In this, as in many other elections, they would be guided by reputation, which would not err oftener, perhaps, than the present mode of appointment." Such was the opinion of that great and good man, at a time when his bitterest enemy could not charge upon him any political or party design. It ought to have more than ordinary weight in the determination of this vital question. Justice Sharkey, of Mississippi, who is a man of high character and an able jurist, says: "much of the opposition to an elective judiciary arises from the prevalence of prejudice to whatever is new. * * * The people have acted with a good deal of discretion, and seem generally to divest themselves of party considerations. As a general rule, the selections have met the approbation of the bar; who are surely the best qualified to judge."

But I will not stop here; I beg leave to refer the Convention to the opinion of Chancellor Buckner, of the same Strte, in reply to an invitation to become a candidate for re-election, he makes use of the following language, which certainly speaks well for an elective judiciary:

"It has been intimated to me that there were grounds for fearing that the future elections for members of the judiciary, would be controlled by party politics. This suggestion has had no possible influence in shaping my determination to decline a re-election, because the past history of the country has furnished me with nothing to warrant such a suspicion, and I yet have full confidence in the honest, unbiassed judgment of the people on this subject. I am satisfied that they will be guided in their choice, by the moral and legal qualifications of the candidate, without regard to his political predilections. They are deeply interested in having the laws of the country faithfully and impartially administered, and they well understand that to attain this important end, they must guard with watchful jealousy the purity, firmness, independence and impartiality of the bench. It may be that there is a small class of small politicians, in either party, who would pollute even the temple of justice with the narrow and proscriptive prejudices of their political sect, but they are too few in number, and too inconsiderable in character to make any impression upon the good sense of the country at large. No good citizen of any party can desire to see our courts of justice converted into partisan machines, and made the mere registers of partisan's behests. Such a state of things would not only overthrow our constitution, but would be a practical subversion of our favorite theory of the capacity of the people for self-government. But it was not my purpose, in touching this subject to go further than to repel the idea that there is any party in this State who would disgrace and destroy its judiciary, by infusing into its members the violence and selfishness of partisan prejudices."

The following extract from a communication, published in the Jeffersonian of this city, is full of good sense, and true to the letter:

"But the necessity of electing judges becomes absolutely imperative, in our minds, when we approach the consideration of the functions they fulfil. Judges not only decide controversies between individuals, but they interpret and construe the constitution and the laws, which is nothing less than the equivalent of making constitutions and laws. The same constitution, when looked upon by a democratic and an aristocratic eye, presents very different appearances. The decision of a court to-day is its precedent on the morrow, and grows to be the law of the land on the third, though it may be such a law as the people or their representatives would have negatived, if brought before them. That such a power as this should be placed beyond the controlling influence of public opinion, which is public knowledge and public virtue, is clearly incompatible with free government"

Now sir, upon the admission that the people are competent electors of judges learned in the law, can it be possible that there are those who doubt their honesty? As strange as it may seem, it is even so; but I am one of those who place great reliance in the virtue of the mass. I believe that the possibility or probability of corruption is removed much farther by leaving the people as sole arbiters in such matters, than by entrusting an ambitious few with our destinies. Is it not preposterous to suppose that it is as easy to deceive and taint a whole body, as a single member? The people are not to be bought and sold as cattle in a market, though there are individuals who go for a price.

Divest the executive of such vast patronage, the very curse of republicanism, and you will soon discover a favorable change. The people's honesty and ability will lend freshness and vigor to all departments. The people will never unite upon a candidate merely because of his learning, his talents, or his family influence; but the question will be, "is he honest, is he capable;" will he dispense equal and exact justice to all men, regardless of personal promotion and family distinction? Will he stand as the sturdy oak, in the storm of passion, and the rage of party, sacrificing self to his country's good?

The very fact of making all officers elective, would have a tendency to enlighten as well as to improve in morals. The people would then feel and appreciate the necessity of inquiring into the duties of officers, and of ascertaining their capacity and fitness for public trusts. A great school would thus be formed, whose tendency would be the direct elevation and enlightenment of men. The day is not far distant when all the States of this glorious confederacy will follow the noble example of our sister Mississippi, on this subject; and since we cannot be the first in tearing the veil of superstition from around the judiciary, let us at least, be in the front ranks, where we can win the admiration and receive the homage of those who are to follow.

Some argue that even if the people are honest and capable, the system would not work, because men could not be induced to abandon lucrative professions for the short-lived honors of judicial stations, dependant on the popular voice. No fear of that—such offices would never go begging for tenants; the possibility of a like contingency would imply a deplorable want of honorable emulation. If the recipients of public favor act well their parts, they have as fair an opportunity of being continued as if the bounty fell from executive hands; nay, a better, for the people will reward services, when individual preference or private hate would sacrifice on the altar of self-interest or self-gratification.

Sir, we should not be deterred from doing our duty, merely because we have been accustomed to view the judiciary as independent of the people. On the contrary, let us leave the beaten track, and exhibit to the world a fallacy as absurd as the one that man is incapable of self government. We now have the opportunity of producing a system, which shall win the admiration of mankind; let us improve the occasion. Reduce every thing to a republican standard; let not a single cog in the great wheel be too small, or too large, or inappropriate, for it might forever destroy all symmetry and harmony of action. In the language of the great apostle of liberty, "follow principle, and the knot unties itself."

Mr. Brent said, the amendment before us, embraces an important measure of reformation, and it should be examined with calmness and deliberation, and a fixed determination on our part to be guided by

truth and principle, High and important interests have been confided to our charge, and our decision upon this matter, as upon all other matters, should be made with strict reference to the good of our common country, the advancement of public morals and the security of public and private righs.

I admit, Mr. President, (said he,) that changes should not be made in the organic law for light and transient causes, yet I cannot but recognize the truth, promulgated in the Declaration of Independence, that all experience has shown, that men are disposed to suffer while evils are sufferable, rather than abolish the forms to which they have been accustomed. Man has been defined by an English philosopher to be "a bundle of habits," and in nothing is the force of habit so conspicuously shown, as in the blind attachment, which too frequently binds him, to that particular system of laws under which he has lived. I could refer to many curious and singular instances to illustrate this position, but will content myself with alluding to one, familiar to those conversant with the history of the day. It is well known, that the people of Rhode Island continued to live under a royal charter, granted by the second Charles, until within a very few years past, they were compelled by the action of public sentiment *out* of the State, to abolish that charter and establish a government, more suited to the intelligence of the country, and the free and liberal spirit of the age. This instance, of itself, is sufficient to show the power and tyranny of habit over the mind of man. If then we have not already reached the acme of political wisdom, if there is any thing left for us to do, in ameliorating the organic law of the country, such improvement must be looked for, in the new, and not in the old States of the Confederacy. The older members of the Union never will be the pioneers in the march of improvement. From habit they cling to the particular forms to which they have been accustomed, not because they are good, but because they are indifferent —not because they are excellent, but because they are tolerable.

Any government, to answer the wise purposes for which all governments were established, must have its foundations laid deep in the respect and affections of the people. And this is particularly true as relates to a government, which, like ours, reposes on the broad foundation of the popular sovereignty. A popular government can never be energetic and efficient, unless it is sustained by the stout hearts and strong arms of the People. Upon what other power can that government rely, but the power of the people! Laws may be framed—whole volumes of statutes may be enacted, but they cannot be executed and enforced, if passed in defiance of the public will. The popular feature is the strongest feature in our constitution. When President Jackson encountered nine hundred banks of paper money, what was it that sustained his administration against the colossal strength of these institutions, but the fact that he was the great tribune of the people? If, instead of being elected by the popular suffrage, he had held his office from the vote of the Senate or the national Legislature, powerful as he was, he would have been crushed and overborne by the hydra brood that hissed around him, and nothing sustained him, but the fact, that he was upheld and supported by the strong and mighty arm of the American yeomanry that elected him. The greater participation the people have in the government, the more they are taught to believe that it is *their* goverment, the greater will be its energy and efficiency, and the better will it answer the wise purposes for which all laws were framed, and all governments established.

I may be mistaken, but I believe that the adoption of no measure which has yet engaged the attention of this Convention, or which will engage its attention, would diffuse so much joy into the hearts of the people, as the adoption of the measure now under debate. When I speak of the people, I do not speak of those who occupy distinguished stations upon the bench and at the bar, nor do I speak of those who have reached the elevated theatre of political life and public distinction; and still less do I speak, of those butterflies, who sport in the circles and in the saloons of fashion, but I speak of the plain practical yeomen of the country, the bone and sinew of the land, upon whose virtue, whose firmness and integrity, this government has always relied, and must always continue to rely, for its peace, its security and its permanence.

I know—I do not pretend to conceal the fact, or to deny its existence—I know that the more wealthy and aristocratic classes of society, with a few honorable exceptions, are opposed to the adoption of this measure. They cling to the feature of an Executive appointment of the judiciary, as the drowning mariner clings to the last plank that floats upon the waves, to keep him from going down into the unfathomed depths beneath. The tenacity of the grasp is the same, though the motives and circumstances are widely different. In the one case, it is to save from certain and inevitable destruction, in the other, from a fancied and imaginary peril.

There have always been two parties that have divided the people of this country—one of them has been in favor of popular government from principle, and hence, as the intelligence of the country advanced, and as experience demonstrated the feasibility and security of the plan, they have advocated, invariably, an extension of the range of popular power. The other party, equally opposed to popular government on principle, have steadily and uniformly resisted every attempt to widen and enlarge the circle of popular rights. Nothing discomposes the nerves of these gentlemen to such an extent, as a proposition to extend the power of the people. It comes upon them like the shock of a Galvanic battery. They can see nothing but death and ruin and disaster, in every departure from old and established usages, and so deep-rooted and deep-seated is their antipathy to popular government, that I doubt not there are individuals among them who had rather see our judges nominated by the Bashaw of Tunis, or the Autocrat of all the Russias, than to see them elected by the direct votes of the people. Between these gentlemen and myself, there is no community of feeling or of thought. We stand as far asunder as the poles. There is a chasm between us as wide as that which separates paradise from purgatory.

The first point which naturally suggests itself to the mind in the investigation of this subject, is that which relates to the political right of the people to elect their judges. Will honorable gentlemen opposed to us, concede that the people have the political right of electing their judges? If so, we shall be grateful for small favors. Should the admission be made, it then follows that I am arguing in favor of nothing that is wrong. I am merely contending for the exercise of a right which is conceded; but perhaps they may deem it advisable not to permit us to make such a strong lodgement on the field of argument as would be at once secured, by the concession of the right. If the right be on our side, we are entrenched at once behind a position, that can be carried neither by siege nor by storm. From under the cover of this redoubt, we could pour upon them the hottest thunderbolts of fight, while reposing ourselves in perfect security from their assaults. Hence the neceesity became urgent to dislodge us from this strong hold, and to bring the question, at once, to an issue by a denial of the right of the people to elect their judges.

To deny the right of the people, is to deny at once, that truth asserted in the Declaration of Independence, that "all governments are instituted for the benefit of the people," and that other truth, asserted in the Bill of Rights, that "all power is inherent in the people." This denial assails the first principles of a popular government, and prostrates in ruins, the Republic which was reared by the hands, and cemented by the blood of our fathers. No man can arise upon this floor, in the face of the assembled representatives of the people, and deny that the people, from whom he holds his trust, are not in full possession of all the rights and powers inherent in the sovereignty of the State. That question, then, I shall regard as settled, and I will hereafter hold the right of the people to elect their judges as indisputable and undisputed.

At this stage of the argument, we may be told that while the right of election by the people is granted, that the expediency of exercising that right is utterly denied. The concession, or the establishment of the right, is sufficient of itself to refute the argument based upon inexpediency. No man can be deprived of a political right, under the pretext that it is inexpedient for him to exercise it. The right once granted or proved, the free exercise of it follows, else the term "right" is an unmeaning and senseless word, having neither force, nor body, nor shape. Of what avail will it be, to possess a right in theory, if it is to be possessed in theory alone? For instance,

I have been invested by the laws and constitution with the political right of suffrage, yet I may abuse that right. Nevertheless, could you deprive me of its exercise upon the pretence that I might abuse it. Again, I have the unquestioned right to manage and control my own private affairs and property as I please, yet it might well happen, that I would abuse that right—that I would squander my means—dissipate my property, and reduce myself to bankruptcy and ruin—still would the Legislature be authorized to withdraw my property from my control, and place it in the hands of a trustee, under the pretext that I might abuse that right.

But what, after all, is this denial of the expediency of the exercise of popular rights, but the old and exploded argument of the monarchist? There is no monarchist on earth, but what will tell you that all governments are instituted for the benefit of the people; yet he will gravely argue, that it is for their benefit that the powers of the government should not be exercised by the people. This is the soothing argument which is to comfort the sorrows, and bind up the wounds of the crushed and down-trodden masses of the world! Behold the condition of the people of England! There, the very bread is taxed, 'ere it approaches the starving laborer's lips—every thing is taxed that man touches, or wears—the light of heaven, itself, is a source of governmental revenue, and the very habitations of men are darkened by taxation. Yet the people of that country are consoled by the information, that it is much better for them that the powers of the government should be wrested from their hands, where they properly belong, and placed in the hands of their tyrants—a pampered and bloated aristocracy, and a man who wears a crown upon his head, and holds a sceptre in his hands. And now, sir, the very argument which is employed to defend the most odious and grinding despotism on earth, is the very argument which is used by the opponents of an elective judiciary. They tell the people that it is much better for them that they should not exercise the powers which belong to them, of electing their judges; that as the king in England can manage the government much better than the people can, so can the governor in this country attend much better to the appointment of the judiciary. Whether the starving masses of England believe in the principle which dooms them to perpetual slavery, is a problem most easy of solution. Remove for a single day, the military power of that government, and the setting sun would shine upon the ruins of that colossal tyranny, which strides above the fortunes and liberties of her people.

Sir, can the free citizens of our country be deceived by the subtle and deceptive arguments, with which the opponents of an elective judiciary seek to wheedle and cajole them out of the exercise of their undoubted rights? Can they believe that it is for their interest that the most important functionaries of the State, who are callled upon daily to decide upon questions involving their lives, their liberty, and their property, should hold their appointment from, and be amenable to, some other authority in the State than that of the people themselves? Human credulity is great; but when the monstrous proposition stands revealed in its naked deformity, the heart of man recoils from it with instinctive loathing and disgust.

Many individuals entertain the opinion that the judiciary system of England is perfect; and that we should so organize that department, as to preserve the leading and important features established by that government. English authority has no weight with me; but if I can show that according to the true principles of the British government, the appointment of judges should flow in this country from the people, it is altogether probable that some votes might be secured in behalf of an elective judiciary, that could be obtained by no argument based upon the true principles of a republican government. In England, the judges are appointed by the crown. The crown is the sovereignty of the State. Now, where is the sovereign power of our government lodged, if it be not lodged in the hands of the people? The people are with us the sovereignty of the State, and an adherence to the British precedent would require that the judges should be elected by the people.

But a reference is frequently made to the British system, for the purpose of proving the importance of having an independent judiciary. The signification of this

term "independent" in England, is different from any meaning that can be attached to it in this country. It means an independence of the crown, and not an independence of the people. Formerly, the judges in England held their offices at the pleasure of the sovereign; but this evil was remedied, and the revolution of 1688 resulted in establishing the principle that the judiciary should be appointed for life, and should not be removable at the will of the crown. This rendered that department independent of the sovereign, and it was a great stride in securing against the encroachments of the throne, the public and private rights of the citizen. It was the first decided advance in popular government, and by making the judiciary independent of the executive, it held out to the subject the hope that he would find in one branch of the government, defence and security from the exactions and oppressions of the other. No wonder that under these circumstances, the independence of the judiciary is regarded as the sheet anchor of the rights of the Briton.

The independence of the judiciary however in England, as every where else, does not result from the particular mode which is pursued in appointing the judges. It is the life tenure of the judiciary, which renders them independent, and they would be equally independent, if they were elected by the people, instead of being appointed by the crown. The independence of the judiciary then, is only to be found in their tenure of office, and does not flow from the particular manner in which they are appointed. A judge elected for life by the people, is just as independent as a judge appointed for life by the crown. In either case he is beyond the reach of responsibility, and the particular mode in which the appointment is conferred, does not abate one jot or tittle of his independence. If you abolish life tenure, and fix a term for which the judges are to be appointed and elected, you destroy this independence, and make the judiciary at once responsible to the power that appoints them. If appointed for a short term, they are subject to constant responsibility; if for a long term, that responsibility is proportionally diminished. But in neither case do you add to, or diminish their responsibility, by adopting any particular mode of appointment. A judge appointed by the crown or the governor, for a term of years, is just as independent (and no more) as a judge elected for a term of years by the people.

It has been generally conceded that in this country there does not exist the same necessity for an independent judiciary that is to be found in England. In fact, there is not the slightest analogy between the situation of the people of England, constantly warring against the aggressions of the throne, and the people of this country, where the very name of a monarch is unknown. According to the theory of our government, there is no power in the State antagonistical to that of the people. It is true, you may build up such a power; you may array one of the departments of the government in opposition to the people; but if you do, you violate the principles of republicanism, and by your own act, you will create a necessity for an irresponsible judiciary, which otherwise would not exist. Now, how do we stand, in reference to this question? We have already decided, and decided very correctly, to abolish life tenure, and the sense of the Convention is unanimous against a judiciary constituted, as it is in England, above all responsibility whatever. Life offices, hereditary titles, and entailed estates, do not comport with the republican feelings and principles of the day. Our supreme court judges are now to hold their offices for the term of eight years. They are no longer to be irresponsible despots, wielding uncontrolled influence over the liberties and property of our people. That question is settled—their responsibility is fixed—and in the investigation of this subject, I would warn gentlemen not to be led into bogs and morasses, by the *ignis fatuus* of an independent judiciary. Upon this question the Convention has moved with a bold and strong hand, and every vestige of an irresponsible judiciary, such as is found in England, has been swept by the board.

This point being gained, and the responsibility of the judiciary being established, another important question presents itself for our decision. The judges are to be held to accountability, and to whom shall we confide the delicate duty of holding them to that accountability? To the governor, the legislature, or the people? The

choice is to be made between these three powers in the State, and between them, who can hesitate?

Every motive of sound policy and expediency requires that the judiciary should be independent of the executive and the legislature. Any other organization of the three departments, would lead to the most deplorable results. Our only safety consists in keeping each of the departments separate from, and independent of the others; and the true and proper independence of the judiciary is to be found in elevating it above the control, and placing it beyond the reach of the co-ordinate branches of the government. The Judiciary is the balance wheel of our political system. As the balance wheel in the machinery of a steamboat, regulates the stroke of the piston, the movement of the valves, and the harmonious action of the engine, even so is it the office of the judiciary, to steady the movements and working of our system, by giving force and proper direction to the other powers of the government. In a pure despotism, all power centres in the monarch. He is at once legislator, judge, and executive. Just in proportion as you divide and separate these powers, you advance from monarchy to republicanism.

The first article of the constitution we have adopted, provides that the powers of the government shall be divided into three parts, and each of them confided to a separate and distinct body of magistracy. As the centralization of power constitutes despotism, its separation and division constitutes the vital principle of a republic.—To make the judiciary dependent upon the legislature, or the executive, would destroy this principle, and would render that department potent for purposes of evil, but utterly powerless for purposes of good. The constitution assigns to each of the departments, its respective duties; and it says, "thus far shalt thou go, and no farther." The judiciary is relied upon, not only to decide disputes among citizens, but to keep the other departments from shooting madly from the spheres allotted to them. It is its duty to decide whether the laws enacted by the legislature, and approved by the governor, are constitutional, or not. If constitutional, to enforce them; if not, to avoid them and set them at nought. But if the judiciary be appointed by the legisture, or the governor, and at the end of a stated term of years, be condemned to pass under the censorship of these departments, what guaranty have we for the protection and integrity of our constitution? Look for a moment at the evils which might result from the dependence of the judiciary upon the legislature, or the executive.

The constitution declares that no *ex post facto* law, nor law impairing the obligation of contracts, shall be passed; and that the writ of *habeas corpus* shall not be suspended, except in case of war, or actual invasion of the country. Suppose the legislature has declared that the writ of *habeas corpus* shall be suspended in a time of profound peace. A citizen, being deprived illegally of his liberty, applies to the judge for a writ of *habeas corpus*. The issuance of the writ is resisted, upon the ground that the legislature has ordered that writ to be suspended. The constitutionality of that act is denied, and a judge who is a candidate for re-election before that same legislature, is called upon to decide whether the constitution has been violated, or not. Do you think that the liberty of a citizen would be safe, before a tribunal thus constituted? Is this the kind of independent judiciary, to which you wish to surrender the lives, the liberties, and fortunes of our people?

But gentlemen tell us that the great and paramount object is, to have the judiciary independent of popular clamor. Sir, these gentlemen can see danger ahead, but in one direction. They seem to have no fear or dread, except of the power of the people. If they can obtain a judiciary independent of the people, no matter how servile it may be to the legislature, or the executive, they have reaped the fruition of their hopes. Independent of popular clamor! yet they say nothing of legislative clamor, venality and corruption! Nothing of executive power, tyranny and usurpation! As for myself, I had rather the judiciary should be a thermometer, to indicate the rise and fall of popular excitement, or that it should be a weathercock, to designate which way the winds of popular feeling blow, than that it should be constituted into a court of record, to register the edicts of the executive mansion, or the mandates of legislative usurpation.

With a judiciary appointed for a term of years and fully responsible to the power that appoints them, we are now called upon to say, whether that judiciary shall be subordinate to the legislature, or the executive, or whether it shall be responsible directly to the people. The election of the judges by the Legislature is the most objectionable mode that could possibly be divised. An adoption of this system, would lead to the most disastrous consequences. It would pollute the streams of our legislation at their fountain head. Corruption and venality would sit enthroned in the council chambers of State, and our legislative hall would be made an arena, in which hungry office-seekers would be pitted against each other. Besides it is a blending of powers utterly incongruous and irreconcilable. Nomination to office is an executive function. It is the duty of the legislature to pass laws and not elect judges. The introduction of this system would inevitably lead to log-rolling, barter of votes, frauds, venality and corruption without end, and in no point of view, is it such a system, as ought to meet with the approbation of this Convention. As however there are but few advocates of it upon this floor, I will pass on without a further examination of its defects.

The executive appointment of the judiciary, is the most earnestly pressed upon our consideration. To this mode of appointment, I have the most decided and invincible repugnance. To the chief magistrate I can never consent to surrender the judiciary, bound hand and foot. As executive and as a constituent branch of the legislature, his acts are to be brought by the judiciary to the test of the constitution. By holding in his hands, the power of reappointment, you give him absolute dominion over the judges, and if disposed to do a violent thing, he would soon fill the bench with fitting instruments to sanction and sanctify the deed. Give him this power and he will unite in his own person all the powers of the government. With legislative and executive functions, and a servile and obedient judiciary, he will possess as much power as the crowned monarch on his throne.

I object to it also, because it is the "one man power." It is a shoot from the doctrine of the divine right of kings. It is an exotic transplanted from the gardens of London tower. The patronage of the executive is a remnant of the monarchial principle, and it is the fountain from whence have issued copious streams of demoralization, that have flowed over the land. Nothing can be more disgraceful and degrading to the character of the American Republic, than the humiliating spectacle, which is presented upon the accession of each new executive, to the chair of State. That spectacle is not only witnessed in Louisiana, but upon the more elevated theatre of the national government. Swarms and myriads of office-hunters flock to the seat of government, as cormorants and vultures gather around a new slain carcass. They besige and beset every avenue which leads to the executive palace, and it is said that one president lost his life by the harrassments and importunities of these hungry claimants, that would take no denial. It is a lamentable truth, yet it cannot be denied, that there are hosts of individuals, who follow in the wake of the two great political parties, as sharks follow in the wake of a ship for the offal that is thrown overboard, or as "thieves and banditti follow after the caravans of the east for the hope of the plunder they may pick up in the rear." It is time, that this evil should be remedied, I desire to dry up this fountain of bitter waters at its very source. The executive ought to be shorn of the whole of his patronage. The power of appointment should be taken from him altogether, and placed where it properly belongs, in the hands of the people. Sir, that convention which shall accomplish this important work of reformation, will have earned for itself, a lasting title to the gratitude of posterity.

But we are told that by this system we have a guaranty for a good appointment, in the responsibility of the executive. The responsibility of the executive! A more unmeaning jingle of words never smote upon the human ear. The responsibility of the executive! What is it? Where is it? How is it ascertained, and how is it enforced? The executive is elected for four years, and is ineligible for a second term. In what then does his responsibility consist? In moonshine—nothing but moonshine. Suppose he makes a bad appointment, if he be responsible, there must be some mode

of enforcing that responsibility. Will honorable gentlemen inform us, in what manner the executive is to be reached? Bad appointments have been made by the score and the hundred, yet I have never heard of a single instance in which the executive has suffered from his responsibility. I have known the governor to take a man from New Orleans and send him up the coast as parish judge, when there were many persons more competent than he, residing in the parish to which he was sent. I have known him to take an individual who was not a lawyer, from the parish of Rapides and make him parish judge of Avoyelles, when there were able and efficient lawyers residing in the latter parish, fully competent to discharge the duties of that station. The same thing has been practised in other quarters of the State—Men notoriously incompetent have been appointed to the important office of probate judge, and ignorant of the first rudiments of law, have been called upon to decide the most complex and difficult questions that could possibly arise in the administration of justice. Yet I have never heard that the governor has suffered from his responsibility. The distant wail of sorrow and suffering does not penetrate into the perfumed and carpeted chambers of power. No matter how much private wrong and injury may be inflicted, the serenity of the executive is undisturbed, and his pillow is not haunted by visions of remorse. No matter how much the public indignation may be excited in distant and remote regions, he wraps himself up in the gum-elastic cloak of his official dignity, and tells the storm to beat, and the rain to pour, and as for the people, "he whistles them down the wind to pray on fortune." Sir, this responsibility is like the airy dagger of Macbeth. It has no actual corporeal existence; you might as well attempt to gather in a basket the fog that hovers over the bed of the Mississippi, as to attempt to locate this floating and undiscoverable responsibility of the executive.

Again, sir, how does the governor act in distributing the patronage of office? In nine cases out of ten he knows nothing of the individual he appoints. He is forced to depend upon the representations of others. He gropes in the dark for such information as can be gathered from the venal crew that flock around the executive mansion. Formerly, under some of the dynasties that are extinct, a few individuals residing in the different sections of the State, were known to control the nominations of the executive. When we ascertained who these gentlemen were in favor of, we had but little curiosity to know who the governor would appoint. The governor being ignorant, from the very nature of things, of most of the candidates for office, a similar practice will always, to a greater or less extent, continue to prevail. The question then resolves itself in this—shall we permit our nominations to be made by an irresponsible cable of unknown intriguers or rather, shall we not confide a matter of such general concernment, to the decision of the great body of the people?

We likewise know that the governor frequently confers the appointment upon that individual who has been most industrious in getting signatures to his petition. Every one knows the facility with which persons affix their signatures to those documents, now so common through the land. Any one will sign a petition. A few years since a very incompetent person was near being appointed parish judge of Rapides, owing to his great industry in obtaining signatures to his petition, and he would inevitably have been appointed, if that same junto of intriguers, to whom I have before referred, had not decided otherwise. In further illustration of this, I once heard an anecdote of a man, who made a wager that he would obtain, in the course of one day, five hundred signatures to a petition, the object of which was to have the most popular clergyman in the city of Albany hung. The tale is soon told—the wager was won, and the five hundred signatures were obtained before breakfast in the morning.

Having now shown a few of the objections to either a legislative election or an executive appointment of the judiciary, I will proceed to explain some of the reasons why the judges should be elected by the direct votes of the people. In the first place, it will render the judiciary, what it ought to be, independent of the other branches of the government. The people now elect the governor and the legislature. Let them elect the judiciary, and all three of the departments are at once placed upon a footing of perfect equality. They will all

then spring from the same common source, and be responsible to the same common tribunal. The whole government will hang then directly on the people, and ours will be a popular government, not in name merely, but in truth and in substance. The reasons why the judiciary should stand upon an independent footing, as regards the legislature and executive, are numerous and obvious. No principle hostile to our republican institutions, can ever creep into the government, unless it is through a department, that does not connect directly with the people. If a monarchical or aristocratic principle is to find a lodgment any where, it will be in that branch of the government that is not responsible to the popular authority. Engraft the judiciary upon the legislature or the executive, and it will produce a fruit different from what it would have produced, if left upon the parent stem. It is as true in politics as it is in physic, that the engrafted tree bears not the fruit of the original trunk. Let the judiciary repose upon either of the other departments —let it draw its vitality from them, and true to the instincts of nature—true to the warm impulses implanted in the bosom of the offspring, in behalf of the parent, it will defend and protect and uphold that parent; against the world beside.

But there are other and more conclusive reasons in favor of this proposition. Interest has been said to be, the main spring of human action. If you wish to have your business well done, you do it yourself; if you are indifferent about it, you employ an agent. That which a man has an interest to do well, will in nine cases out of ten, be well done. Now who has such a deep and abiding interest in the appointment of a good judge as the people among whom the judge is to act? If a bad judge be selected, who suffers from his dishonesty, his incompetency and his reckless disregard of justice, but the people who live under his jurisdiction? If rights are trampled under foot, if the power of the judge be prostituted to purposes of oppression, who are the victims but the people who are immolated by his power? Now you desire to take away from these people, whose rights, and liberty and property are at stake, the power of electing their judge, to vest it in a man, who has no immediate personal interest in the selection of a good officer. And can you believe that the end proposed, will be obtained by such a strange and unnatural proceedings? Except so far as the immediate locality where the governor resides is concerned, it is a matter of indifference to him what kind of an officer be appointed. If he can gratify his ambition, his hate, his friendship, or any other feeling of the human heart, he will do in it the appointment of a judge, though the streams of justice should run black with the waters of corruption. I am not dealing in fancy; the history of the past will fully justify what I say.

Again, sir, while the people have the deepest interest in the selection of a good judge; they are decidedly the most competent to make that selection. The governor, as I have before remarked, is generally forced to depend upon the representations of others. The people have a personal and direct knowledge of the qualifications of the candidate. There is nothing so purely local as the reputation of a lawyer, unless he possesses high and striking qualities, which are not always the best qualities for a judge. There are good lawyers in this city, every way qualified for a judicial station, who have no general reputation throughout the State. There are excellent lawyers in the country, who would make the best of judges, who are not known even by name to men practising the same profession in this city. Now you desire to take from the people of each locality, who have a perfect knowledge of the capacity and qualifications of the candidates; the power of electing their judges; to vest it in a man who has no knowledge whatever upon the subject, and who, if he has any desire to do right, can only guess as to the selection of a goood officer. In doing this you violate the plainest dictates of common sense, and you do not display even that ordinary prudence, which regulates the conduct of men in the every day transactions of life. You are for taking from the people, who have the deepest interest and the best knowledge on the subject, the power of selecting their judge, to give it to an individual without personal interest in the matter, and wholly devoid of the knowledge required for the proper discharge of that duty. With such a system as this in operation, who can wonder that bad appointments have been made—

and that the public confidence has been unsettled in the administration of our laws?

When hard pressed upon this point, honorable gentlemen have been forced to admit that the chances are decidedly the greatest for the selection of a good judge, when elected by the people. But they say that the desire for re-election on the part of the judge, will throw temptations in his path, that cannot possibly be resisted. They urge that if a case arises between a popular individual and one of less note, that the judge will so shape his decision as to secure the greatest number of votes at the approaching election; or that if a case originates between one who promoted his election and one who opposed it, that he will be strongly tempted, to decide in favor of his friend and against his enemy. This is the argument most relied upon, by those who cannot look in the eye, the true principle of a popular government, and yet endeavor to skulk behind some subterfuge, that will excuse them for with-holding from the people; the exercise of the rights which justly belong to them. Sir, of all the arguments urged against an elective judiciary, this is the most shallow; and the most easily exposed. Suppose that the judge does desire a re-election, do gentlemen mean to say that dishonesty is a passport to popular applause? The great body of the people are under the control of no one individual; and that judge miscalculates the force of public sentiment, who can expect to stand up against it, by the aid of any individual, no matter how popular, or how influential. But what, after all, is this objection, but to charge moral corruption upon the judge who is elected by the people? If it be admitted, that the people will select the best judge, the great probability is that he will be best able to resist the temptations that beset his path. If the election by the people will give you a better man, than the appointment by the executive, you have a better guarantee for the faithful snd honest discharge of the judicial functions. The particular mode in which a man is elected or appointed, does not alter his nature. If the judge desires re-election, he would desire re-appointment; and according to the same logic, if a case should originate between an obscure individual, and one who had the ear of the executive, he would so decide as to secure his re-appointment. Again, if the judge is inclined to decide in favor of his friends and against his enemies, why cannot he gratify his inclinations, as well when appointed by the executive, as when elected by the people? Is there any peculiar virtue in holding office from the hands of the governor? Does an executive appointment freeze the nature of man to stone, or strike with torpor and paralysis the affections and passions of the human heart? The great object is to obtain capable and honest judges. That system is best which will secure the best men upon the bench. Let gentlemen prove to me that the people will not elect the best judges, and I will cheerfully acknowledge my error. And now, sir, I would here ask, whether any objection can be urged against an election by the people, that cannot be made to apply with ten-fold force to an appointmen by the executive? Again, I say, that gentlemen can see danger but in one direction; their vision is keen to detect any objection that may be urged against a popular election, but they can see no objection to an executive appointment, though it stood full in their sight, as high as Atlas, and as insurmountable as the Appenines.

But have gentlemen never heard of the leaning of these executive judges in behalf of the more wealthy and influential classes of society? There being something aristocratic in a judiciary thus constituted, its tendency has always been aristocratic. When a man of wealth has shot down his neighbor in cold blood, in broad day-light and in the open street, have you never heard it remarked, as if such a thing was a matter of course, "that man is too rich to be hung?" And is not this the case, not only here, but generally throughout the Union? When Commander McKenzie ordered one midshipman and two seamen to be executed at the yard-arm of the brig *Somers*, for mutiny, one of the reasons given by him for inflicting such summary punishment was, that the chief criminal being the member of a wealthy and influential family, it would be impossible for him to be convicted and punished, if brought to this country, to be dealt with according to law. It is lamentable, but it is nevertheless true, that in this country, wealth procures immunity from punishment for crime. It has always been the case

here, as well as in England, where the judiciary hold their offices from the executive and from the throne. Even Shakspeare tells us

"The usurer hangs the cozener,
Through tattered clothes small vices do appear,
Robes and furred gowns hide all. Plate sin with gold,
And the strong lance of justice hurtless breaks:
Arm it with rags—a pigmy's straw doth pierce it!"

This same remark applies equally throughout all the gradations of crime. The rogue who embezzles his thousands and hundreds of thousands, escapes the felon's doom, while the poor wretch who steals a loaf of bread to feed his famishing children, is certain to feel the heaviest vengeance of the law. How happens it that these great and crying abuses exist in our midst? Is this a free and equal government, where poverty alone is to be made the target for the shafts of justice? Is wealth to be permitted to hurl defiance at the civil power of the State, and to burst asunder, like cob-webs, the meshes of the law? But I may be told that the fault principally lies with the juries of the country, and should not be entirely attributed to the judge. I admit that juries are frequently to blame, yet most of the evils can be traced directly to the judge. In the first place, the judge is to decide whether the accused is to be admitted to bail or not, and if admitted to bail, to fix upon the amount required. Here a vast latitude is given to the judge. The constitution says that excessive bail shall not be required, yet the judge is to decide whether the bail be excessive or not. A man worth a hundred thousand dollars is frequently held to bail for a heavy crime, in the sum of five or ten thousand dollars. It amounts to nothing at all. A poor man, not worth a dime, will perhaps be held to bail, for the same offence, in the sum of one or two thousand dollars. It is more than he can possibly furnish, and hence he must go to jail; while the rich man goes at large, forfeits his bond, or stands the chances of his trial, or has the indictment quashed, or in some other mode makes his escape from the penalties of the law. When the case goes to trial, the judge stands between the evidence and the accused; and he decides what evidence shall be rejected, and what evidence shall be received and read to the jury. He is then given by law the power to charge the jury, and who does not know the vast influence which is thus exercised by the judge over the minds of the jury? After all, when the trial is concluded and the verdict rendered, he possesses the power to set the verdict aside, to order a new trial, and give another chance to the prisoner to place himself in a better position before the next jury that is to decide upon his case. There are a thousand ways in which the power of the judge can be employed to defeat the ends of justice, or to save any individual whom he desires to save. Now, sir, if these evils are to be remedied—if the tendency of the judiciary be to favor the wealthy and to sacrifice the poor—the aristocratic feature of an executive appointment of the judiciary must be abolished. The judges must spring direct from the people, or else justice will never be administered, by the same common standard, to the rich and the poor, the high and the low.

There is another point, to which I have already indirectly alluded, but which is worthy of a more pointed examination. By limiting the tenure of our judiciary, we have made them responsible officers. The purity of the administration of justice depends upon the manner in which that responsibility is enforced. If a bad judge be re-appointed, or if a good judge be not re-appointed, their responsibility ceases to be a good and becomes a curse. There will then be no inducement for an upright and fearless discharge of duty. Every thing depends upon the intelligence and impartial action of the power that is vested with the appointment. Now it is impossible for the governor to know, whether the judges in distant quarters of the State have discharged with industry and fidelity the important trust committed to their hands. A judge is an important character, and the governor would hardly venture to displace him, except in cases of gross and glaring outrage. These considerations render it of vital importance that the task of holding the judiciary to responsibility should be reposed in the hands of the people.

I have examined this question in every point of view in which it could be considered, and I unhesitatingly declare it to be my deliberate judgment, that no objection can be taken against the system but such as is founded upon a distrust of the

capacity and intelligence of the people. Every argument urged againt it, when stripped and disrobed of that which is extraneous, assumes necessarily this complexion. The same arguments can be urged against popular government itself that are urged against an elective judiciary. If the people are competent and capable and have the right to elect their judges, upon what pretence can they be deprived of the exercise of that right? Those who deny the right of the people—their competency and capacity—assume the only true and manly ground upon which this claim can be resisted. The monarchist and the aristocrat, who believe that it is for the benefit of the people, that they should be scourged into subjection, can hardly be expected to give it their countenance and support. The judiciary as now constituted, is the only aristocratic feature in our constitution. The antagonist principle to republicanism has here taken up its abode, and has retreated to this, the last citadel of its power. Line after line, entrenchment after entrenchment, have been carried by the victorious democracy, and when their banner shall be planted upon these battlements, the glorious triumph will have been complete.

Mr. President, an experience of thirty-two years ought to satisfy us that there is something radically defective in the system of permitting the executive to appoint the judiciary. That system has worked badly. The public mind has been deeply agitated on the subject we are now discussing. A distinguished gentleman from New Orleans (Mr. Grymes) told us, the other day, ihat a feverish excitement prevailed among the people. That harrassing doubts and anxieties perplexed the public heart; and that there was a growing feeling of insecurityand alarm arising from deep seated and well founded distrust of the judiciary. The picture which he drew is faithful to nature. The feeling of insecurity exists, and it will continue to increase, until some efficient measure of reformation shall be adopted. When a system has worked badly, I know of no better way than to abolish it, and try some other system, which offers a better prospect of success. The election of judges by the direct votes of the people, is that system, and I can see no reason why it should not be adopted.

Some gentlemen have said, that we are anxious to reduce this government to the government of a mob, and they object to our proposition, because, they say, the judicial ermine will be soiled, if brought in contact with the people. Will any representative upon this floor stigmatize the people that elected him as a mob? The serfs and minions of monarchy employ language like this, to bring in disrepute and opprobrium, the free government, under which we live; but that American who adopts it as his own, degrades his parentage, shames his nature. and is guilty of wilful and wanton self-abasement. So far from the judiciary being contaminated, by reposing upon the votes of the people, new elements of vigor and strength and purity will be infused into it; and instead of being watched, as it now is, by jealous and distrustful eyes, it will be looked up to, with love and veneration, and regarded as the palladium of our public and private rights. What is it that makes the office of President of the United States a prize so highly esteemed, and so eagerly sought after, but the fact that he is elevated to that distinguished office by the suffrages of twenty millions of freemen? Any office becomes elevated and dignified, when conferred by the voluntary suffrages of a free people; and who is there that had not rather hold office awarded by the confidence of his countrymen, than if awarded by the proudest monarch that wears a diadem!

Another fallacy exists upon this subject, which is frequently urged against the system. We are told that all experience is against it. Sir, the very reverse of the proposition is true. *All experience is in its favor.* The failure of other States to make the experiment, cannot be quoted as their experience against it. You might as well contend that, because the people of Europe have not established republics, their experience is against republicanism.

A partial experiment of this system was made, many years ago, in Connecticut, and we have the authority of Mr. Jefferson, that it was eminently successful. But the experience upon which I chiefly rely, is that of our sister state of Mississippi. The testimony of the success of this sys-

tem in that State. is too strong and unanimous for the existence of the fact to be denied. I know that gentlemen will sneer at any allusion to repudiating Mississippi, and that they will hold up their hands in holy horror, at the bare idea of attempting to engraft the democracy of Mississippi upon the constitution of Louisiana. Admit, for argument's sake, that upon this question, she is wrong, and that her legislature ought to tax her people, to redeem her bonds, that were hawked through the streets of London, and shaved by the British brokers, in defiance of her constitution: still, can any argument be drawn from that against the ability, the independence, and the honesty of her judiciary? Her judges are to be judged by *their* acts, and not by the acts of her legislature. I have said that the testimony from Mississippi, in favor of that system, is strong and conclusive. I will prove it. In addition to the evidence of the delegate from Baton Rouge (Mr. Read) I hold in my hand a letter from a gentleman well known, by reputation, in this State; a lawyer of distinguished abilities, whose testimony upon this point is entitled to peculiar weight. The letter is addressed to myself, and reads as follows:

New Orleans, March 22d, 1845.

Dear Sir:

I have received your letter of the nineteenth inst., requesting my views upon the operation in the State of Mississippi, of the system adopted there of electing judges by the direct votes of the people, and asking my attention, particulary, to the objection urged against the system, that such elections would generally, if not always, turn upon party, or political questions.—Having no objections to the public avowal of my former opinions, or present views, upon this interesting subject, I cheerfully comply with your request.

At the time of the adoption of the revised constitution in Mississippi, in 1832, I was, with a majority of the bar of that State, opposed to the system of electing the judges by the direct votes of the people. We regarded it as a new and hazardous experiment, beautiful in theory, but dangerous in practice. Many of us did not doubt the capacity or intelligence of the people to make the best selections, but we feared that popular excitements would find their way upon the bench, that party spirit and political prejudices would generally determine the selection, and that the judges would carry these predjudices with them upon the bench, and a train of other evils. These, and other objections, were urged in the Mississippi convention, with great ability. The system was, however, adopted, and of course, its operation has been watched with deep interest and severe criticism.

The experience and observation of nearly thirteen years, have convinced me, and many others who opposed the experiment, that our apprehensions were not well founded. So far, the system has worked well in our State. We have witnessed no evils attending it which are not incident to any other mode of selection, and on the contrary, the development of some advantages over other modes of appointment. Our judicial stations have been filled with as much, if not more ability, learning and weight of character, than formerly. So far, the people of our State have appeared to perform this delicate duty with as much intelligence and discernment, and I conceive, with more integrity of purpose, than any other appointing power. We have seen the electors of districts, in the midst of political party excitement, elect judges differing from them on political questions; and I believe no instance has yet occurred of the election of a judge, in our State, upon mere party questions.

Upon the whole, after a careful observation of the operation of our system, I give it as my decided opinion, that the experiment of electing judges by the direct votes of the people, has proved eminently successful in our State.

I am very respectfully,
your ob't servant,
J. A. QUITMAN.

We have seen from this letter of Gen. Quitman, that during the space of thirteen years, this system has been in active operation in Mississippi, and that it has fully realized the expectations of its friends. We find that under its workings, politics have been driven from the bench, and the judicial stations of the State have been filled with ability, learning and weight of character. Can as much be said for the operation of our system in this State? So far from politics being driven from the bench, with us, we have seen noisy and brawling

politicians yet smoking with the dust of the political battle-field, with all the exacerbations of political strife yet clinging around their hearts, elevated to the important trust of deciding upon the lives, the liberties and property of our people. The practical working of our system has been the very reverse of that of Mississippi. There can be no comparison instituted between the two. But as I have before observed, the testimony of this gentleman is entitled to peculiar weight. He was a member of the Convention of Mississippi that adopted the revised constitution of 1832. In that Convention he was the leader of the opposition to this principle. His pride of opinion, his prejudices have all been arrayed against it; yet, as he informed me, the observation of thirteen years had forced him gradually and reluctantly, to abandon his first position, and at this moment he regards it as the best possible system that could be devised. Should this Convention think proper to adopt the amendment now under debate, thirteen years hence, I have no doubt, that the gentlemen who are now loudest in their opposition, if called upon for their testimony, would write a letter similar to the one I have just perused. I cannot, however, dismiss this branch of the subject, without expressing my deep and heartfelt admiration of the sagacity, the moral courage and independence of the statesmen and people of Mississippi. Trusting to truth and principle, they fearlessly launched the bark of State upon what may have been considered, (notwithstanding the partial experience of Connecticut) as the ocean of an untried experiment; just as the mariner stretches out boldly and fearlessly upon the wide and trackless sea, relying upon those known and fixed laws of nature, which regulate the action of the compass, to guide him through storms and tempests, through darkness and through danger into that haven, where all the winds are still and nature sleeps in smiles.

But, sir, I have other and higher authority than that of Mississippi. We invoke in our behalf the authority of a great name, around which, in time past, the democracy of this country rallied, as around a tower of impregnable strength—it is the name of Thomas Jefferson. His opinions have already been alluded to by the delegate who preceded me, (Mr. Read) but there are other portions of the same letter quoted by him, to which I wish to call your attention. I read from his letter addressed to Samuel Kerchival, dated the 12th of July, 1816; Mr. Jefferson said, after speaking of the defects of the first constitutions adopted by the States:

"Where then is our republicanism to be found? Not in our constitution, certainly, but merely in the spirit of our people. That would oblige even a despot to govern us republicanly. Owing to this spirit, and to nothing in the form of our constitution, all things have gone well. But this fact, so triumphantly misquoted by the enemies of reformation, is not the fruit of our constitution, but has prevailed in spite of it. But it will be said, it is easier to find faults than to amend them. I do not think their amendment is so difficult as is pretended. *Only lay down the true principles, and adhere inflexibly to them. Do not be frightened into their surrender, by the alarms of the timid and the croakings of wealth, against the ascendancy of the people.* If experience be called for, appeal to that of our fifteen or twenty governments for forty years, and show me where the people have done half the mischief in these forty years, that a single despot would have done in a single year. The true foundation of republican government, is the equal right of every citizen in his person and property, and in their management. Try by this, as a tally, every provision of our constitution, and see if it hangs directly on the will of the people. Reduce your legislature to a convenient number, for full and orderly discussion. Let every man who fights or pays, exercise his just and equal right in their election. Let the executive be chosen in the same way, and for the same period. It is thought that the people are not competent electors of judges *learned in the law.* But I do not know that this is true, and if doubtful, we should follow principle. In this, as in many other elections, they would be guided by reputation, which would not err oftener, perhaps, than the present mode of appointment. In one State of the Union, at least, it has been long tried, and with the most satisfactory success. The judges of Connecticut have been chosen by the people, every six months, for nearly two centuries, and I believe there has

hardly ever been an instance of change, so powerful is the curb of incessant responsibility. If prejudice, however, derived from a monarchical institution, is still to prevail against the vital elective principle of our own, and the existing example among ourselves of periodical election of judges by the people be mistrusted, let us at least not adopt the evil and reject the good of the English precedent. Let us retain amoveability on the concurrence of the executive and legislative branches, and nomination by the executive alone. To give it to the legislature, as we do, is a violation of the principle of the separation of powers."

Thus spoke the sage of Monticello.—The words of wisdom hang upon his lips. "only lay down true principles and adhere to them inflexibly. Do not be frightened into their surrender by the alarms of the timid, or the croakings of wealth against the ascendency of the people." Let this admonition sink deep into our hearts, and a way will be opened up to us for escape from all the evils that now impend above us. Who that peruses the strong and nervous language, the short and pithy sentences of this statesman and philosopher, as his bold mind travelled over this subject, and explored the true principles of a free government but what feels his pride kindled in the reflection that "he too is an American!" With that intuitive sagacity which ever distinguished him, he discovered that in a popular government, principle required that all officers should be elected by the people, and with that boldness and independence worthy of his mighty and unshrinking nature, he declared himself in favor of adhering to principle, and trusting the consequences to that great Providence, who overseeth and over ruleth all things. Sir, the authority of this great name cannot but have its weight with the posterity of that people, to whom he rendered so many and such important services. He was the penman of the great charter of our liberty, and he was foremost in unfurling the standard of resistance to British tyranny and oppression, at a time when that flag floated friendless in the breeze, yet his fame does not depend upon brilliant and successful warlike achievments. The light of military glory does not linger around his tomb, but the civil services, which he rendered to his country after the close of the war, in defining and establishing correct principles of government, have endeared him to the hearts of the American people, and have wreathed unfading laurels around his brow.

The fact, that this principle is not to be found in any of the ancient constitutions of the confederacy, is no argument against its adoption now. As Mr. Jefferson remarked in the same letter, "the abuses of monarchy, at the period of their establishment had so much filled the space of political contemplation that they imagined every thing to be republican which was not monarchy." The capacity of man for self-government was then an unsolved problem. The republican principle was then in its infancy. It has since grown and expanded into the full vigor of maturity, and it is now in the strong and lusty prime of its golden manhood. The American people are capable of self-government in its widest and most extended signification. If the experience of sixty years were not sufficient to satisfy the most credulous; the events which have taken place in the last twelve months, would furnish the proof. No man can as yet have forgotten the intense excitement of the last presidential election; an excitement which leaving the thronged avenues and crowded thoroughfares of our great cities, penetrated into the remotest regions, the most quiet and sequestered haunts of men; an excitement which was all absorbing, and all pervading; where all the fierce passions of our nature were called into action. Avarice, the greediness for office, the lust for place and power, and that demon of the mind, restless and unsleeping ambition. In fine the thousand strings of the human heart had been smote upon, and every cord was tingling at the touch. In the midst of all this excitement, while the waters of the political sea were boiling and bubbling around, the day for the election came: the ballots were deposited; and instantly, as if the voice of him who spake as never man spake, had bid the raging elements, be still, a peace, a quiet, a hush, as profound as that of the grave, settled and brooded over the land in all its length and breadth. Where the wide earth over! where in all the annals of human history, can a spectacle be found, equal to this for moral grandeur and sublimity! The spectacle of a vast and mighty people, swayed by all

the commingled passions of our nature, instantly relapsing from excitement to repose, yielding ready obedience to the majesty of the law, and doing voluntary homage to that principle, which they themselves had established, that the majority should prevail.

I have been told by honorable gentlemen opposed to me, that they entertained not a doubt but that this system of an elective judiciary would ultimately be adopted; but they stated, we were not prepared for it now. The state of our preparation can have nothing to do with the question. If it be right, we *are* prepared for it now. If it be wrong, we shall never be prepared for it. But why do they suppose that this system will ultimately be adopted? If it be error, why can it not be detected, exposed, resisted and defeated? But it is because gentlemen feel and know that it is truth and not error, and that truth is mighty and must prevail. Error can be attacked, uprooted and destroyed, but truth mocks at your efforts and defies your power. No matter what changes and vicissitudes may take place in human affairs or on the face of the habitable globe, truth will still flourish in immortal youth. Revolutions may sweep over the earth—war may kindle and extinguish its battle fires around the globe—new empires may rise and sink like bubbles on the water, and nature herself may be dissolved in elemental fire—yet truth —truth—will live unhurt amid these changes, and will walk unscathed and unharmed through the conflagration.

Mr. President, whatever may be the action of this Convention, at all events my duty has been discharged, and I leave the consequences to those whose province it is to determine; and to him who holds in his right hand, the destinies of men and nations. Should this Convention decide to abandon truth and principle, for the prejudices of habit and early education, there is a tribunal to which we can appeal with a confidence almost amounting to certainty. There is a power behind us greater than we, that will sit in judgment over our work; and to the people, themselves, we must look for this great and salutary measure of reformation. I stand here one of a feeble and powerless minority, yet few and weak as we are, we have a weight and moral influence that can only be derived from truth and a good and honest cause—not from any abilities we possess, for we are the weakest of the weak, the humblest of the humble. Yet, sir, we are the champions of the people—the advocates of popular rights—the defenders of truth and justice. The great masses of the country are with us, and it is their voice which urges us on to the conflict, and which cheers and animates us in the approaching hour of defeat and disaster.

If honorable gentlemen expect that the agitation of this question will cease with the decision of this body, they are most wofully mistaken. The agitation has but commenced. They have but heard the first mutterings of the storm. When the public mind shall grapple with this subject; when the public attention shall be fixed upon it, we will then see which way the popular current sweeps, and woe be to him who shall lift up his puny arm to stem the current of Niagara.

I have no despair, sir. I can look from under the gloom of the present, to the rainbow Hope, which spans the heavens in the distant future. I am no prophet, and no son of a prophet; yet I can see traced in letters of light, upon the broad and ample page of our country's future history, the ultimate triumph and ascendancy of the great principles for which I am now contending. I may not live to see it—my heart may e'er then have ceased its anxious beatings—its hopes and its fears may alike be extinguished in the grave—yet there are those living, older than I, who who will hail its consummation.

> Truth, crushed to earth, will rise again;
> The eternal years of God are hers;
> But Error, wounded, writhes in pain,
> And dies amid her worshippers.

The yeas and nays were called for on Mr. Brent's substitute.

Mr. Porter would explain that he preferred the appointment by the legislature. But he conceived the people the source of all power, and he certainly preferred the election by the people, than the appointment by the governor.

The yeas and nays were called for; yeas 20, nays 40.

Mr. Peets then moved to lay his propo-

sition on the table, subject to call, to be taken up in connection with the mode of appointment of district judges.

The yeas and nays were then called for on the adoption of the original section; yeas 35, nays 23.

On motion of Mr. Benjamin, the Convention took up the fifth section as amended, and adopted the same.

The eighth section was then adopted.

The Convention then proceeded to section eleventh.

Sec. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions, but such as are purely judicial; and no other duties or functions shall ever be attached, by law, to the office of a judge, but such as are judicial.

Mr. Mayo hoped that the committee would explain what was meant by the words purely judicial; would it embrace writs of seizure, and sale and orders of sequestration?

Mr. Lewis thought that these were embraced in the judicial functions.

Mr. Mayo moved to strike out "no court, or judge of any court," and to substitute "no judge of the district or supreme court."

Mr. Beatty said that he preferred the substitute to the amendment, but he was opposed to both.

Mr. Downs proposed to make a slight amendment to the substitute offered by the delegate from Catahoula, (Mr. Mayo) by inserting the words "shall perform any function not properly appertaining to a judge."

Mr. Eustis said that his only objection to this, was, that it would open the whole question.

Mr. C. M. Conrad: It will leave the courts to determine.

Mr. Eustis: That is what the constitution should avoid.

The yeas and nays were called for on the substitute; yeas 23, nays 27.

Mr. C. M. Conrad proposed the recommitment.

Mr. Mayo moved to strike out the word "purely," there were many mixed questions.

Mr. Eustis objected.

Mr. M. Taylor moved to insert the words "nor receive fees of office."

Mr. Lewis did not wish to argue the question; he was in favor of taking away from the judges all functions not judicial. In relation to justices of the peace it might be necessary to introduce some amendment, showing that they were not embraced in the clause. For that class of magistrates he would acknowledge he was in favor of the popular election.

Mr. Saunders moved to add the word "gratuitous" after the word "judicial."

Mr. Guion moved to substitute, for all the amendments, the following: the legislature shall not assign other duties but those that are purely judicial.

Mr. Lewis said that the gentleman's object appeared to make parish judges out of justices of the peace; he was wedded to that system, and that was his object.

Mr. Guion: I did not intend to raise the ghost of the dead parish-court system. My friend from St. Landry is mistaken; the question was taken on Mr. Guion's substitute, and it was lost.

Mr. Garrett thought that the section was sufficient; he would therefore move to lay all the amendments on the table indefinitely.

Mr. Benjamin hoped that the section would be adopted; he saw no necessity for the amendments. What was to prevent the legislature to permit the same abuses to grow up that have heretofore prevailed, and for accumulating in the judicial office again the functions of auctioneer, notary, &c. He thought the language of the section sufficiently explicit. It was to restrict the judges from exercising any other functions but those that were purely judicial. He was placed upon the bench to administer justice between man and man, and not to make contracts. These were not within his appropriate functions. There were stronger reasons for restricting the judges to functions purely judicial, because one judge was appointed for several parishes. Let us break up every thing like partial legislation. If you amend this section, and give the discretionary power to the legislature, the result will be continual exceptions in favor of particular judicial districts. It will be found desirable in some parishes, that the judge of the district court would make a good president of a police jury, and an act will be asked for to confer on him the duties of that office.

We shall thus insensibly be laid back to the old system. If the people chose to confer any duties upon the judge, not inconsistent with his judicial functions, let them do so. But let us maintain the present system in all its integrity.

Mr. Dunn said that it was very easy to destroy, to pull down—but it was difficult to build up. You destroy one system without giving us to understand what system should take its place. The Convention ought to know this, to vote understandingly, and with a due sense of public wants and public interest. I would ask gentlemen, where are the interests of orphans to be guarded? Who are to make inventories? Who are to take care of the estates of the helpless. There is nothing that reveals, nothing that sheds any light upon this very important point. Before I vote for the details of your system, I should like to know what officer is to look over these interests. I hope that the section will be laid on the table, until some functionaries are provided to take the place of probate judges, until you have established a tribunal to preserve the interests of successions. So far as the judges of the parish courts and the district courts are concerned, there is no great difference. But in reference to the probate court, there is evidently something required. There should be no speculation upon this subject. There should be some officer appointed to protect the interests of those who are unable to protect themselves; and I should prefer it if one of these officers were appointed for each parish. I move that this section be laid upon the table, until some provision be made upon this matter, and until you have determined the jurisdiction of such court as is necessary to take cognizance of the cases to which I have referred.

Mr. Garrett said that the gentleman was about to propose the revival of the parish court system.

Mr. Dunn said that he did not wish to frighten gentlemen with the ghost of the parish court system. He only proposed to lay the section upon the table until some provision was made for the indispensable business growing out of successions; he was anxious to know what was to take the place of the probate court. In his parish, alone, it would require all the time of a judge to transact all the legal business that arose. He hoped that nothing would be done until some disposition was made of this matter.

The question was taken on Mr. Dunn's motion, and it was lost.

Mr. C. M. Conrad proposed the following amendment: no judge shall hold any other office but that of a judge, and if other duties be assigned to him by the legislature, they shall be performed gratuitously.

Mr. Conrad said that his object was to prevent the multiplication of office in the hands of the judge. It was admitted on all hands, that the accumulation of these offices was a great evil; he wished to remedy that evil, but he was apprehensive that the clause in the section was too sweeping. The question might well arise, what were judicial functions? Was the appointment of an administrator, a dative testamentary executor, a proceeding purely judicial? The examination of young men for admission to the bar; was that a judicial function? Again, was the certifying of a record, a judicial function? He could see no use in tieing up the hands of the legislature. He thought that the clause was too sweeping.

Mr. Mayo moved to insert after the words "no judge," in Mr. Conrad's substitute, the following, "of the supreme court or of the district courts.

Mr. Lewis proposed to insert the words "or exercise." He wished the prohibition to be in explicit terms.

Mr. Downs proposed the following: "no judge shall perform or exercise the functions appertaining to a notary or an auctioneer, or any other duties which do not belong to the office of judge."

Mr. Soule was apprehensive that these numerous attempts to amend the section would be attended with no good result. He could not understand how the words purely judicial could interfere with those functions which necessarily arose from their office, and in the exercise of which it is not intended they should be restricted. In point of fact, it was not as judges that the parish judges exercise the functions of notaries public and auctioneers, but it was ex-officio, in virtue of a special law. If the judges be inhibited the exercise of certain functions, it is clear that they are still permitted to exercise those functions that do not come within that category.

The question was severally taken upon the propositions of Messrs. Conrad and Downs, and they were rejected.

Mr. Downs then moved to insert after the words "purely judicial," the following, "and which do not properly belong to the functions of judge," and to strike out the words "any jurisdiction."

The yeas and nays were called for on Mr. Downs' amendment; yeas 23, nays 32.

Mr. Mayo then moved to strike out the word "purely;" which motion prevailed.

Mr. Miles Taylor moved to add the following, "and they shall receive no fees of office."

Whereupon, on motion, the Convention adjourned.

Wednesday, April 23, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer by the Rev. Mr. High.

Mr. Marigny said he had been long enough in this Convention for each one of its members to be persuaded that he was sincerely devoted to his country, and that he would propose nothing which was not for its present and future welfare. If any one should feel surprised at the proposition I am now about to introduce, and which I desire may be placed in our social compact, I will respond that no one is worthy of holding the station of a legislator in a republic, who is fearful of assuming responsibility when a question is involved, in which all the citizens, of whatever station, must feel an interest, and which will indubitably be discussed in an inverse sense. He had reflected for a long time, as well upon the motives which determined him to submit this clause to the examination of the Convention, as well as upon the effects which it would produce if it were sanctioned. It does not belong to the matter now under discussion, but will properly come up in the general provisions. I shall then take that occasion to show that it is expedient, and I trust that my arguments will be understood. Inasmuch as the proposition is one of some consequence, I have thought it not out of place to present it now, in order that it may be taken into consideration by the members of the Convention, and that after due reflection, they may be prepared to vote upon it. My colleague (Mr. Eustis) will at my request make a translation of the proposition—it is as follows: "The legislature shall have the power to confer the rights and privileges of citizenship upon those descendants of persons of color, upon whom, for motives of public policy, it may deem expedient; *provided*, that said descendants be born in the State."

Mr. Marigny then proposed that the foregoing resolution be laid on the table subject to call.

The Convention then took up the

ORDER OF THE DAY.

Section eleventh of the majority report, as amended, viz:

Sec. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions, but such as are judicial; and no other duties or functions shall ever be attached by law, to the office of a judge, but such as are judicial.

The question under consideration at the adjournment, was the motion of Mr. Taylor of Assumption, to amend by adding after the word "judicial," in the fourth line, the words "or receive any fees of office."

On motion, said amendment was adopted.

Mr. Mayo moved to amend said section, by inserting after the word "functions," in the third line, the words "arise directly from the exercise of judicial functions."

The Chair (Mr. Taylor of Assumption in the chair) decided the amendment to be out of order.

Mr. Mayo appealed from the decision of the chair.

On the question being put, the decision was sustained.

Mr. Lewis then moved the adoption of the section as amended, viz:

Sec. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions but such as are judicial; or receive any fees of office; and no other duties or functions shall ever be attached by law to the office of a judge, but such as are judicial.

The yeas and nays being called for on the adoption of said section,

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton,

Carriere, Chambliss, Chinn, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, McCallop, McRae, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the affirmative—41 yeas; and

Messrs. Beatty, Guion, Labauve, Marigny, Mayo, Roman, Trist and Waddill voted in the negative—8 nays; consequently said motion was carried, and the section was adopted.

On motion, the twelfth section was taken up, viz:

Sec. 12. No court, or judge of any court, shall ever have the power, by any order or judgment, in any suit, process or other proceeding before them, or pending in such court, to order or adjudge any money to be paid by the parties to such suits or proceedings, or make any allowance out of any money or property that may be in actual custody of said court, or officers thereof, except for the payment of legal fees of the ministerial officers of the said court, as allowed and established by law.

Mr. Benjamin offered the following as a substitute for said section, viz:

"No court, or judge of any court, shall ever have the power to order the payment or allowance of any fee or compensation, to any attorney, *curator ad hoc*, or other similar officer, appointed to represent any minor, absent heir, creditor or other party interested in any cause or proceeding, before such court or judge."

Mr. Guion moved to amend said substitute by inserting after the word "compensation," the words "except such as are allowed by law."

Mr. Benjamin said that he desired to state a few considerations which rendered the adoption of his proposition, or some thing equivalent to it, of indispensable necessity. The abuses which have grown up were without a parallel in the civilzed world. Large sums of money were allowed by order of the courts to persons who were appointed to represent absent heirs and absent creditors, without reference to the value or the necessity of these services. An attempt to put a stop to the evil had been made in the legislature but it had failed. There was a law limiting the amount in insolvent cases and prescribing that it should be paid out of the amounts collected, but in ninety-nine cases it was never carried into effect. He had known of cases where the fees of the attorney to represent the absent creditors exceeded the dividend. In cases of successions an attorney was appointed to represent the absent heirs, and his duty was confined to writing a simple letter to inform the parties that were presumed to be interested, that a succession was opened; and for this trifling service four or five hundred dollars and some times more were allowed by the court, or for the attorney of the absent heirs affixing his name to the inventory. This course of proceeding was calculated to bring great discredit upon the administration of our laws. It was in fact a system of legal plunder, of pillage, in which the property of absentees were most unmercifully fleeced. But these were not the only evils. It conferred a great deal of patronage in the disposition of the judge, and enabled the courts to sustain favorites at the bar. It appeared to him to be one of the most flagrant abuses. The profession of the law was as well remunerated as any of the liberal professions. Its members ought to be satisfied, and should be bound to represent the absent parties until a correspondence could be had between the parties. When the judge would find it necessary to appoint an attorney to comply with the formalities of law, that attorney ought to tender his service gratis; it was due by him to his profession; in the same way that a member of the bar would attend to a criminal case if requested to do so by the judge, without any compensation. He (Mr. Benjamin) would willingly contribute his quota of service, in order to put a stop to what might be appropriately designated a legal plunder. The members of the bar ought to be bound to accept for the time being this amount of tax upon their labor. It would be but little. It was at present accumulated in the hands of two or three, but if it were no longer a source of emolument, it would be distributed among the whole profession. He repeated that it was a service due to the profession, and it would preserve the judiciary pure. It would do away with the money patronage of the judges; they would not

have a score of protegies in their pay, and unable to appropriate the money of absent persons without check or control. Every thing like legislative control have proved inoperative. He hoped his proposition would prevail. The members of the bar would no doubt readily perform this duty. It should be regarded as a part of the tax for obtaining their diplomas, and they would discharge it with the same alacrity as if called upon to volunteer in a criminal prosecution.

Mr. Mayo said he was anxious to stop the sources of all possible abuses, but it was indispensable that the absent creditors and absent parties should be adequately represented. To insure this, there should be a fee attached for the rendition of the services, or otherwise the interest of parties would be either totally neglected or inefficiently attended to. The best counsel, whose time were valuable, would not engage in these matters without being paid; nor did he know that it ought to be expected that these services ought to be rendered gratuitously, inasmuch as the parties interested were in a situation to pay for the services rendered.

Mr. Guion: I agree with the gentleman from New Orleans, (Mr. Benjamin,) that the allowances to attorneys to represent absent parties are frequently disproportionate with the services rendered. His proposition however is more beautiful in theory than in practice. I have no doubt that in the generosity of his nature he would very willingly contribute his services, but it would not be so throughout the State. To do away with the patronage of the judges as he desires, it would be necessary to change our whole system. The only remedy that can be applied under existing circumstances, is to establish fixed fees in such cases.

Mr. Beatty was opposed both to the proposition of the gentleman from New Orleans, (Mr. Benjamin,) and to the amendment offered by his colleague from Lafourche (Mr. Guion,) although he considered the latter less exceptionable. He considered that every individual was entitled to be paid for his services whether he were an attorney at law or not. In his opinion the proposition was a matter for legislation, and should not be introdced into the constitution. He conceded that serious abuses may have arisen in New Orleans and some other parishes. But in the section of country in which he lived there were no abuses either in reference to this matter, or in reference to others, which it seemed had elsewhere brought the probate court system into so much disfavor. As nothing is better calculated to establish facts than actual occurrences, he would state a case in point.

In 1840 a widow married without obtaining the consent of a family meeting to retain the tutorship of her minor children. She was consequently by the effect of the law deprived of it, and has sought in vain to be reinstated. The amount of property is large, and the security required by the judge is consequently large. The minors have no relations, or at least they have none who are able to become tutors or tutrixes. Strangers are unwilling to accept the charge, and the minors remained without a tutor. The property amounts to twenty thousand dollars; a number of suits had been instituted against the father, but no judgment has been obtained against the succession. Four or five years ago I was appointed by the court *tutor ad hoc*, to represent the minors and to defend them in several suits for various sums from four to five hundred dollars, and one suit is for as mnch as twelve thousand dollars. Now I would ask, in similar cases is it reasonable to expect an attorney to give his services for a series of years without compensation; and yet this as well as many other cases would fall under the gentleman's proposition where the parties are able to pay. If abuses are the result of the present system it ought to be left to the legislature to provide the proper remedies. It is not to be presumed that the legislature will continue to neglect their duties, nor that the judges appointed for a limited term will neglect and violate the intendment of the law for the purpose of gratifying a few favorites at the bar. The courts should be restrained in the exercise of the faculty of making allowances without putting it entirely out of their power to make a reasonable allowance.

Mr. Lewis hoped that the amendment of the delegate from Lafourche, (Mr. Guion,) would not prevail. He did not know that any great abuses existed in his section of the country in relation to the administration of property which belonged to absent

persons. He conceived it wrong in principle to dispose of the property of such persons without their knowledge or consent. As he understood the proposition of the delegate from New Orleans, (Mr. Benjamin,) it did not interfere with a proper allowance in proportion to the amount of services rendered. It was simply intended to restrain the judges as judges, and the courts as courts. It was to take away what was called their patronage, and which might be distributed with a lavish hand among their favorites. It was to leave the patrons without the means to fill the pockets of their favorites. He thought it a necessary principle and that it ought to be incorporated in the organic law. He did not believe that any judge was so corrupt as to have any personal interest in the distribution of these amounts, for the services that were rendered, and which were in striking disproportion to those services. He did not believe that, to use a common expression the judge went snacks, but it is possible that corruption and venality may find its way into high places. Even the distinguished philosopher and jurist, Francis Lord Bacon was seduced from the paths of rectitude. We should guard and protect the judiciary, and if possible place it beyond the reach of suspicion. I apprehend there will be no difficulty in carrying out the proposition of the delegate Mr. Benjamin. Whoever heard that when the services of a lawyer were required that he did not freely volunteer them, although he was conscious that they would be rendered without compensation. I have never heard of a respectable attorney who has refused to defend a criminal because that criminal had not the means of paying him. In an experience of twenty years at the bar, I have never heard of any thing of the kind. It is considered a point of honor among the profession, and these services are discharged with as much alacrity and as much zeal as if they were secured by a large fee. The amendment of the delegate from Lafourche I consider unnecessary. I hope the proposition will be adopted without the amendment.

Mr. Brent said, I agree in principle, but I differ in the construction placed upon the proposition by the delegate from St. Landry, (Mr. Lewis.) The language I understood to be similar to that reported by the committee. I consider that the legislature would not have the power to impose upon the courts under the restriction, the appointment of attorneys to represent absent parties, and to allow them a compensation. Some provision ought to be made for allowing a reasonable compensation in such cases, but I am opposed to the courts fixing that compensation. I think that it ought to be fixed by the legislature; it ought to be established by law, and I think that the original section, with a slight alteration, would accomplish that result.

Mr. Dunn thought it better to postpone the consideration of this subject. There was no doubt of the fact that many abuses were the result of allowing the judges to appoint the attorneys, and then allowing them their fees. But he thought that if no provision was made, the interests of absent persons would suffer. Unless the attorney appointed was paid for his services, the interests of the parties would not be properly represented. At any rate, this was a matter within the competency of the legislature. A provision even might be introduced to make it obligatory upon the legislature to prescribe suitable legislation. It might happen that a man living in Mississippi might have large interests in this State to be protested, and under the proposition of the delegate from New Orleans (Mr. Benjamin) he would command the services of a member of the bar for nothing. On the other hand, it might prove injurious to the party represented, for after all there was nothing like interest, and lawyers were not an exception from the general rule. I do not say so, but it is a prevalent opinion. The legislature could take all such measures as were necessary.

Mr. Preston was opposed to laying the section upon the table. It had been postponed once before. He thought the Convention should go through with it. To his mind it was one of the wisest provisions, and to show how necessary it was considered, he would state the fact, that it had met with the unanimous sanction of both the majority and minority of the committee. He preferred the original section to the substitute of the delegate from New Orleans (Mr. Benjamin.) The only objection to the original section was, that there was some little obscurity in the middle of it. It might be construed that the judge could not

order the payment of money. But, the phraseology could be changed. It could be put into proper form by the revising committee; but we are met by the objection that these abuses could be cured by legislative intervention. To this he would reply, that they had existed for thirty or forty years, and no attempt had been made to remedy them. They had grown up, and were piled like Ossa upon Pelion. It was safe to infer from their overwhelming influence, that they would predominate hereafter, and as the legislature had never provided a remedy, it was to be presumed they could not, since they had not. It was fallacious to argue from special cases. But take the strong case put by the delegate from Lafourche (Mr. Beatty) where the minors were able to pay, and could have paid. The judge might have appointed a planter or a merchant, as the *tutor ad hoc*, and the tutor could have employed the lawyer, and have stipulated for his fees. This would have been the course, had it not been competent for the judge to make the selection of an attorney. He (Mr. Preston) objected to the money patronage of the judge. It produced crying evils in this community, thoughout the State. Persons had begun to regard it as so much business, to which they were legitimately entitled, and it had so far blunted their feelings that they were glad to hear of a failure or a death. The result was that the interests of a few favorites were exclusively consulted, and with moderate talents they obtained a great ascendancy over the judge. It went so far, that parties saw it, and they would go and employ the judge's favorite, to gain their case. He had no idea that there was any corruption of money, but there was a corruption of influence. This power of allowing money out of the estates of absent persons, or of persons incapable of representing themselves, ought to be repudiated. It resulted in the dilapidation of estates, and rendered them in many instances insolvent. There were but few exceptions, and these were in large estates. There was more paid to protect estates, frequently, than was left to be divided among the heirs, or distributed among the creditors. The legislature had fixed a fee of two hundred and fifty dollars for the attorney to represent absent creditors, in insolvent cases, to which each of the creditors were to contribute proportionably. But a great deal more than that amount was allowed in spite of the law. The consequences of the practice was to encourage enormous fees, and the attorneys for absent heirs were allowed large sums of money when it was not possible that the heirs themselves should ever get one cent. The features were the same in insolvent estates. The favorite attorney was paid, even though the creditors should not get one cent. The practice had become habitual, and the parties interested did not think they were doing wrong. An attorney who was a witness to these proceedings, could not reprobate them, because it would deprive him of his standing in the courts. You cannot reprobate the judges. It cannot be done, and will not be done. The Convention have the opportunity of rendering the judiciary pure, and not only pure, but like Cæsar's wife, beyond suspicion. The judges will applaud you to the skies. If you deprive them of this money patronage, by which they will be relieved from the swarm of parasites that hover about them with their mouths open, to devour insolvent estates and successions. There is no other State in the Union where this money patronage is to be found. The course pursued elsewhere, where absent persons are interested, is to make publications in the public papers. In most cases of attachment or seizure, the garnishee is the agent of the defendant, and would properly represent his interests. As relates to minors, I have answered the case submitted by the gentleman from Lafourche (Mr. Beatty.) In the case of estates of deceased persons, the executor can represent the interest of the absent heirs as well as an attorney specially appointed for that purpose. The same thing can be said of the curator. The executor had the confidence of the testator, as is shown by the will, and that should be conclusive. The curator has the confidence of the court. It is a humbug got up to pretend that the interest of absent persons are to be taken care of by the courts through the intervention of favorite attorneys, who are to be rewarded by extravagant fees, and in fact to the great detriment of the interests of those whom they are to represent. If the interests of these parties are likely to suffer, it might be made the duty of district attorneys,

throughout the State, to intervene in all such cases to protect their interests, until they made themselves known, or caused themselves to be duly represented. This would be infinitely better. In the city of New Orleans, and for the parish of Jefferson, it would be, perhaps, necessary to increase the salary of the district attorney, by reason of the great accumulation of labor that would result, and this could be done by increasing the tax upon foreign successions, which has been established. He believed the parties that were so much benefitted by the existing system, were not aware that there was any thing wrong in it, and they were led to believe that they could get property without adequate labor. One of the first objects is to render your courts pure and unsullied. This was a reform most loudly called for.

Mr. CHINN said he could not consent by his vote to admit this matter into the constitution. It was a subject of pure legislation.

Mr. SOULE deemed it to be his duty, under a sense of impartiality, to correct some errors into which the gentleman had fallen in treating the subject. That there has been abuses in the administration of successions, and in the administration of the estates of insolvents admitted of no doubt. But he must confess he felt surprised that two members of the New Orleans bar should attribute these abuses in any way to the judge. They have grown out of defective legislation. To hear the gentleman from Jefferson (Mr. Preston) one would suppose that the judges were at fault. It had always been in the power of the legislature to apply a remedy for any abuses that might be found to exist in the system. In regard to the amounts allowed to attorneys to represent absent heirs, the judge of the court of probates in the city, never took it upon himself to fix the fees in such cases. That is not the practice. The course was to present the account and have it discussed before the judge contradictorily, as in common cases, and the proof had to be administered to the judge in the presence of the parties that might choose to contest the claim. He did not speak from his own experience, for he had never been appointed to represent absent parties and never should be; but he spoke from what he had seen in cases in which he was interested in a practice of fifteen years. How is it then assumed by the gentlemen who are familiar with the practice, as a fact unsusceptible of contradiction, that the judges assess the fees of those whom they may choose to appoint to render these services. I never have known any judge to assume such a power. It is for the curator, administrator or executor to put down any exhorbitant claim. It is simply presented among other claims to be homologated, and public notice is given in the newspapers, to the end that any one who may feel interested, may contest the claim. It is throwing a responsibility by asserting that the judge takes upon himself any power to make the allowance arbitrarily; it is never assumed, and never can be assumed by the judge under your law. After erasing from the statute books, the parish judge and probate court system, although it has been intimated that New Orleans is the place of the greatest abuses in relation to these matters, I dare assert, that the judge of the probate court never takes it upon himself to allow any claim unless the proofs be exhibited in the presence of the parties interested.

I desired, said Mr. Soulé, to correct the gentleman, because an impression might have been created which was not authorized by the facts. It is but an act of simple justice to the gentleman who presides over the court of probates in the city to make these explanations. Now, in reference to the merit of the question, I will observe that it is a mere matter of legislation, and it ought not to be interpolated in the constitution. If you cannot trust your legislature, you might as well abolish it. But it strikes me that this want of confidence in the legislature is tantamount to denying the right of the people to govern themselves. If you cannot trust your legislature in the unimportant matter of regulating the fees of attornies for absent parties, you might as well, and better, refuse them the powers with which they have been so largely vested in the constitution. He would vote against taking this matter out of its appropriate sphere.

Mr. BENJAMIN said that his colleague (Mr. Soulé) labored under a misapprehension, or he would not certainly have volunteered a defence where no attack had been made. I have not heard a syllable attack-

ing the judge of the court of probates, or any other judicial functionary, and I am surprised that the gentleman should have so construed any thing that might have been said. Nothing that I said could bear such a construction. I spoke generally and cited the proceedings in insolvent cases, and it is not the court of probates that has any thing to do with these bankruptcies. I stated that there was a law regulating these charges. That law has been passed about twenty-eight years. It provides that the fees shall be paid by the mass of the creditors from the amount recovered, at the rate of five per cent. Why did I cite the law? It was to show that the legislature had acted, but that their enactment was totally inefficient. It was the daily practice, where not one cent was collected, to exact exhorbitant fees in direct contradiction with the law. Did I say that the judges were responsible? It is the fault of the system itself, which admits of the abuse. It is in this way that the transaction is consummated: A. is the attorney of the syndic of the estate; B. has been appointed by the court, attorney to represent the absent creditors. When it becomes necessary for A. to file his tableau into court, he meets B. and asks him for his account. B. makes out the account according to how much he can get out of the estate, and not according to the amount of actual services rendered. A. is a friend to B., and he says this is not my business, the amount is large, but there are gross abuses in these matters, and he puts down B. for the full amount of his fee. The tableau is presented to the court, and the usual notice is given preparatory to its homologation. B. figures upon it for two, three or five hundred dollars, when in point of fact his services were not worth twenty dollars. After the expiration of ten days the tableau is homologated as a matter of course, there being no opposition. It happens that there are a large number of creditors, and the dividend to each is small; and the increase would not be sufficient to induce them to contest B.'s claim. B. pockets the money, to which he has no right. This is unjust, and it is to this abuse I wish to see applied an efficacious remedy.

In the case of successions, the practice is but little varied, and the result is the same. A. is the attorney of a succession. B. has been appointed by the court to represent the absent heirs. The executor has no interest in the matter. His duty is limited to administering the estate in conformity with law. The tableau is about to be placed in court, and B. hands in his account, which, as a matter of course is placed upon it. No opposition is made, and the judge presumes that it is right. Thus it is that the man who is appointed to protect the interest of the absent party, finds himself in the singular position of being interested to plunder him. The abuse exists, and it is manifest that the legislature has failed to apply a remedy. It must be borne in mind too that there are strong motives for upholding these abuses. They are the sources of immense profits. They ought to be uprooted in the constitution, and I think no matter too small which tends directly to uphold the purity of the judiciary. I attack no man, and it is gratuitous to suppose any thing of the kind. I repeat again that it is the fault of the system, and not the fault of individuals. One of the principal causes that promoted the call of the Convention, was to reform the abuses in the judiciary. They have caused more complaint than any thing else. I can see no objections to impose so slight a tax upon lawyers. They are at any rate a privileged class. They have to undergo a preliminary examination, and if admitted they are privileged to pursue the profession, exclusive of all others who are not admitted. This is an advantage. It is not so with manual employments. The apprentice to the brick-layer or carpenter, may set himself up as a journeyman, and get the same wages. It is clearly within the competency of the authorities, as the price of the license, to impose upon the lawyer the duty of attending to all cases where the parties are absent, gratuitously, as is now done in relation to criminal cases, when the accused has not the means of employing counsel. It would be a light tax, and it is one to which they ought to be subjected. I know of no other way to cure the evil. The authority to dispose of another man's money without his consent, or without his knowledge is in violation of every principle of right and justice. The system has led to crying abuses, and it ought to be put a stop to forever.

Mr. Preston said that he attacked no

one in the remarks which he had submitted to the Convention. He certainly did not intend to say one word against the individual to whom reference had been had. He entertained for him the highest respect and kindest feelings.

Mr. Soule: The remarks of the gentlemen amount to this, that they have not attacked any one. Where have these abuses originated? They admit that the evils that exist have grown out of legislation. Because our legislation has been inefficient should we frame a body of laws? It has been stated that no allusion was made to the judges. I thought there was an unjust allusion made to them, but I did not intend to charge that such allusion was made by my colleague, (Mr. Benjamin.) Frequent allusions have been had during this debate to the parish judge and probate judge of New Orleans. From what has been said, it might be inferred that they were the supreme rulers of the fees allowed to attorneys appointed to represent absent parties. This is not the fact. There is not a bar in the world where good offices are rendered with more generosity than by the bar of New Orleans. I never heard that any citizen whose honor, life, and reputation were at stake, however humble or poor he might be, that wanted the assistance of the best defence of which his case was susceptible. As far as their liberality were taxed they were willing to accept the trust. But I do not think that it would be proper to impose an obligation upon them in the constitution, which, after all involved a question of generosity, and not of duty. We were not here to constitute laws, but to form a constitution. For these reasons, he should vote against the proposition.

Mr. Eustis begged permission to submit one or two remarks. He thought it wise and salutary to deprive the judges of every species of patronage. It was considered by the committee that the work assigned to them was not complete without some such guard as they proposed in the section. In a sister State, where similar abuses had grown up, a similar remedy had been applied. He would take the liberty of reading from the constitution of New Hampshire. [Mr. E. here read the clause referred to.] No where else did the system exist of making allowances out of the money of absent persons. It was regarded as sacred, and held inviolate. He could see no good reason why a contrary practice should prevail here.

Mr. Beatty moved to lay the section, the substitute and amendment on the table indefinitely. The yeas and nays being called for, (Mr. Taylor of Assumption in the chair,)

Messrs. Beatty, Briant, Carriere, Chinn, Labauve, Soulé and Trist voted in the affirmative—7 yeas; and

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Roman, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—50 nays; consequently said motion was lost.

Mr. C. M. Conrad thought some such amendment was necessary as was proposed by the delegate from Lafourche, (Mr. Guion.) Cases will arise, as have arisen, where the rights of those not competent to represent themselves would have to be represented. He was disposed to give as much credit to the members of the bar of New Orleans for liberality, as to the members of any other profession, and they would have to be as ready to perform any service gratuitously as the members of any other profession. But why declare that they shall render important services for ever gratuitously. If they were willing to render these services in particular cases, of the exigency of which they were the best judges, why let them do so. Let them have the privilege of selecting the proper object for their liberality. He could see no reason in subjecting them by an irrevocable rule to render services to a rich heir in France or in England. Such cases would not be proper subjects for charity. It had been stated that experience had proved that laws were inefficient to correct the evil complained of. Why the judge was as much bound to conform to the law as

he was to the constitution. Both were obligatory, and if the law was rendered inoperative by the neglect of the judge, the constitutional provision might in the same way remain inoperative. He concurred in opinion that there ought to be a curb put to judicial patronage, to arrest the abuses that resulted from it. But he thought this was a proper subject for legislation.

With leave of the house, Mr. Benjamin withdrew the substitute offered by him.

Mr. Lewis then offered the following substitute, viz:

No court or judge shall make any allowance by way of fee or compensation in any suit or proceeding, except for the payment of such fees to ministerial officers as may be established by law.

Mr. Lewis moved the adoption of said substitute.

Mr. Conrad said that this amendment did not meet precisely his views, nor his argument. He would move to strike out the words "ministerial officers."

Mr. Benjamin said that these words were placed in the substitute at his request; without them we should accomplish nothing.

Mr. Beatty would call the particular attention of the Convention to what they were about incorporating in the constitution. He considered it absurd to declare in that instrument that the members of the bar should render services gratuitously for strangers which were not even pretended to be claimed for our own citizens; to render services to every foreigner upon the surface of the globe. If the question was understood, it could not, nor would not receive the sanction of the Convention. I can very well understand, and I conceive it to be proper, when the law has compelled the foreign heir to present himself, or to be duly represented by a power of attorney, that the right of action of the counsel appointed by the court to represent him, to a reasonable compensation, should be postponed until he is present, or represented by his own orders; but until this be done, it is nothing more than just that the attorney appointed for the protection of his rights should be compensated for his services out of the property which is protected. Now, as to the amount of that allowance, it should not be unreasonable nor disproportionate to the services rendered. In almost every country attachment suits are brought against the property of non-residents. There surely is some way of getting at the property, whether they appoint an attorney to defend the interests of the absent person, as in Louisiana, or not. I am but little familiar with the common law practice; but I presume there must be some mode of enforcing payment, and of proceeding against the party. There are many of our citizens who have to be represented in our sister States, in matters of pecuniary interest. It may become necessary that I should be represented in the State of Kentucky. If legal services were rendered in that State in my behalf, whether I were compelled to pay for them or not by law, I should feel nevertheless bound to do so. I am not willing to leave this a matter of generosity. In equity, I conceive that the party represented is bound to pay for the services rendered. There should be some legal means then of enforcing payment. But this proposition debars you. It debars you even if the party appear, and although you may have represented him in matters of immense value, and would be entitled to recover your claim before any judge or any jury, you are debarred from suing him. The court has no power of allowing you one cent, nor can you seek payment by any other means. As for the amendment of my colleague from Lafourche, (Mr. Guion) I consider it impracticable. It is impossible to fix the fee to be received by a legislative act. The amount allowed may be insufficient, or it may be exhorbitant, according to the particular service rendered. The only remedy which in my opinion can be applied, would be to require that no allowance should be made by the court, to the attorney appointed, but that he should have his recourse against the individual for whom he appeared, or his duly qualified agent. That remedy would meet the difficulty, and I should be satisfied with it.

Mr. Chinn called for the previous question.

The yeas and nays were called for on Mr. Conrad's motion to strike out the words "to ministerial officers," (Mr. Taylor of Assumption it the chair,)

Messrs. Aubert, Beatty, Carriere, Con-

rad of Orleans, Conrad of Jefferson, Dunn, Garrett, Guion, King, Labauve, Ledoux, Porter, Scott of Feliciana, Splane and Trist voted in the affirmative—15 yeas; and

Messrs. Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Covillion, Chinn, Eustis, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Roman, St. Amand, Saunders, Scott of Baton Rouge, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—39 nays; consequently said motion was lost.

Mr. Dunn offered the following amendment, to be inserted after the word "compensation," viz:

"Unless such compensation be allowed by a judgment rendered contradictorily with the parties interested."

Mr. Dunn moved for the adoption of said amendment; which motion was lost.

Mr. Lewis moved for the adoption of the substitute; the yeas and nays being called for, (Mr. Taylor of Assumption in the chair,)

Messrs. Aubert, Benjamin, Bourg, Brazeale Brent, Brumfield, Burton, Carriere, Chambliss, Chinn, Covillion, Eustis, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, St. Amand, Scott of Baton Rouge, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester voted in the affirmative—36 yeas; and

Messrs. Beatty, Conrad of Orleans, Conrad of Jefferson, Downs, Garrett, Guion, King, Labauve, Ledoux, Mayo, Mazureau, Porter, Roman, Saunders, Scott of Feliciana, Sellers, Splane, Trist and Wadsworth voted in the negative—19 nays; consequently said motion was carried, and the substitute adopted.

On motion, the fourteenth section was taken up, viz:

Sec. 14. There shall be an attorney general for the State, and as many other prosecuting attorneys for the State as may be hereafter found necessary. The said attorneys shall be appointed by the governor, with the advice and approbation of the senate. Their duties shall be determined by law.

Mr. McRae moved to amend said section by striking out the words, "the said attorneys shall be appointed by the governor, by and with the advice and approbation of the senate," and insert in lieu thereof the following amendment, viz:

"The attorney general shall be elected by the qualified electors of the State at large, and the prosecuting attorneys, by the qualified electors of the several districts."

Mr. Read moved for a division, that is, the Convention first proceed to sirike out the words "the said attorneys shall be appointed," &c.; which motion prevailed.

The yeas and nays being called for on the motion to strike out,

Messrs. Brazeale, Brent, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—23 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Chinn, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Guion, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Prescott of St. Landry, Prudhomme, Roman, St. Amand, Saunders, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff and Winchester voted in the negative—31 nays; consequently the motion was lost.

On motion, the said fourteenth section was adopted.

On motion, the fifteenth section was taken up, viz:

Sec. 15. The State shall be divided into the following judicial districts, in each of which one judge, learned in the law, shall be appointed. Said districts shall remain unchanged until the first day of January, eighteen hundred and fifty one.

The first district shall be composed of the parishes of Plaquemines, St. Bernard and Orleans.

Second district, of St. Charles and Jefferson.

Third district, of Ascension, St. James and St. John the Baptist.

Fourth district, of Assumption, Lafourche Interior and Terrebonne.

Fifth district, of Iberville, West Baton Rouge and Point Coupée.

Sixth district, of East Feliciana and West Feliciana.

Seventh district, of St. Helena, Washington and St. Tammany.

Eighth district, of East Baton Rouge and Livingston.

Ninth district, of Natchitoches and Claiborne.

Tenth district, of Caddo, De Soto and Bossier.

Eleventh district, of Rapides and Avoyelles.

Twelfth district, of Sabine and Calcasieu.

Thirteenth district, of St. Landry and Lafayette.

Fourteenth district, of St. Mary, St. Martin and Vermillion.

Fifteenth district, of Union, Morehouse and Ouachita.

Sixteenth district, of Caldwell, Franklin and Catahoula.

Seventeenth district, of Carroll and Madison.

Eighteenth district, Tensas and Concordia.

Mr. PORTER moved to amend the first paragraph of said section by striking out the word "appointed" and insert in lieu thereof, the words "elected by joint ballot of both houses of the general Assembly."

Mr. Porter said he did not intend to discuss this question at length, but he would briefly give his views; he conceived that the question was pre-determined, and that nothing he could urge would change the determination of this house. We were told on this floor that, the legislature was not to be trusted, and this, too, by gentlemen that had served in that body. If he had have made such a statement about gentlemen who are now occupying seats on this floor, and were formerly members of the legislsture, (and there is a large proportion of the members of this body that have been members of the legislature) he would have expected to have been called out, and perhaps his life have been the forfeit; but gentlemen were the best judges of their own honesty. Sir, no gentleman can believe that this charge is made seriously, or with any other view than to sacrifice the legislature to the executive power. The first thing done by this body was to establish a legislature, consisting of a senate and house of representatives; now, sir, if they are not to be trusted, let us abolish them, and appoint a governor general and council, and save the expense of legislation. But, sir, I would ask, does not the legislature emanate more directly from the people, and is it not more directly responsible to them than any other department of the government? To mistrust it is to mistrust the people, for it is essentially the organ of the people. But what is the executive? A single individual, removed much farther from the people, consequently much less acquainted with their local wants and interests, is more likely to be deceived and to make improper appointments than the legislature would be, the members of which are acquainted with all the applicants from the different parts of the State, therefore the accumulation of power in the hands of the executive ought to be avoided. We have already confered on the governor the right of appointing the supreme judges; let the legislature by joint ballot elect the district judges; this would be a wholesome check on the executive, whose powers and patronage is now too great, and is exerting baneful influence over the country. All the arguments that have been urged against the appointing power being placed in the hands of the legislature, to-wit: log-rolling, favoritism, corruption, bribery, &c., will apply with ten-fold force to the governor; in the latter instance there is but one man to tamper with or corrupt; in the other you would have to tamper with or corrupt many; at the same moment is not the legislature acting under the solemnities of an oath, as well as the governor or the judges? Has not our governors and judges been members of the legislature? and are they now honester than they were then? Would they not be as easily tampered with now as then? Why, then, this abuse of the legislature?

We were, the other day, much amused by the gentleman from New Orleans (Mr. Conrad) in the description he gave of the multiplicity of the powers and functions confered on the parish judges. He told us that John Stiles (as he supposed the parish judge's name to be) was parish judge, that John Stiles was probate judge, that he

was notary public, that he was auctioneer, &c., &c., giving him I think nine different offices or functions; now, sir, I do most heartily concur with the gentleman in believing that there is nothing more odious than giving so many different offices or functions to any one individual or officer; and as the Convention has killed off little John Stiles for that crime, I hope we will kill of old John Stiles, the governor, the father of all the Stiles'. But let us compare the power and patronage of little John Stiles with old John Stiles the governor; little John had nine functions—old John has the appointment of the supreme court, and I suppose all the district courts, of fifty sheriffs, of fifty coroners, of three hundred notaries, five hundred justices of the peace, and a thousand others too tedious to mention. Now, sir, I hope this house will kill off all the family of Stiles', and leave all the appointments to the legislature and the people.

Mr. Lewis said that he would explain his vote; he was not in favor of the election of the judges by the people, but he was in favor of their election by the legislature. With the view of carrying that principle into effect he would say yes.

The yeas and nays being called for,

Messrs. Brazeale, Brent, Burton, Brumfield, Carriere, Chambliss, Covillion, Garrett, Humble, Hynson, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Read, Scott of Baton Rouge, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—23 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Chinn, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Prescott of St. Landry, Roman, St. Amand Saunders, Scott of Feliciana, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Wadsworth and Wikoff voted in the negative—30 nays; consequently said motion was lost.

Mr. Garrett moved to amend said paragraph by striking out the words "said districts shall remain unchanged until the first day of January, eighteen hundred and fifty-one," and insert in lieu thereof the words "said districts may be changed by the legislature"—which motion was lost.

Mr. Beatty then offered the following as a substitute for the whole section, viz:

The first legislature assembled under this constitution, shall divide the State into not less than fifteen judicial districts, nor more than twenty-four, which shall remain unchanged for six years thereafter, and be subject to re-organization once in every six years only—for each of which district one judge, learned in the law, shall be appointed.

Mr. Beatty moved the adoption of the above substitute.

Mr. Soule moved for the previous question, which motion prevailed.

Mr. Garrett moved to amend said substitute by striking out the word "ten" and insert the word "six" in lieu thereof, which motion prevailed.

On the motion of Mr. Beatty for the adoption of the substitute, the yeas and nays nays being called for resulted as follows—yeas 26, nays 32.

Mr. Porter then moved to amend said first paragraph as follows, viz:

The State shall be divided into ten judicial districts.

The yeas and nays being called for on the adoption of said amendment, resulted as follows—yeas 7, nays 51.

Mr. Lewis moved the adoption of the first paragraph as reported, which motion prevailed.

Mr. Lewis then moved the adoption of the remainder of said section.

Mr. Taylor of Assumption moved for a division, that is, to adopt the remainder of said section by districts—which motion prevailed.

Mr. Wadsworth said that he hoped his amendment would prevail. The parishes of St. Bernard and Plaquemines ought to form a separate judicial district. If it were embraced in the New Orleans district, it would be inconvenient to the inhabitants; and they would have to come to the city to attend to any legal business they might have. In the settlement of successions, this would be very troublesome, and the business of those parishes would be exposed to neglect, from the great press of business in the city.

Mr. Brent said he would remind the gentleman, that the previous question had been called, and debate was not in order.

Mr. Wadsworth: The gentleman has

occupied more than one-tenth of the time of the house.

Mr. GUION moved to reconsider the vote adopting the previous question; the yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Garrett, Guion, Hynson, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Sellers, Soulé, Taylor of Assumption, Trist, Wadsworth and Winchester voted in the affirmative—35 yeas; and

Messrs. Brazeale, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Hudspeth, Humble, Kenner, King, Labauve, McCallop, O'Bryan, Prescott of Avoyelles, Read, Scott of Feliciana, Splane, Taylor of St. Landry, Waddill, Wederstrandt and Wikoff voted in the negative—23 nays; consequently said motion was carried.

Mr. WADSWORTH said he had only five words to say, when the attempt was made to apply to him the gag, and that by gentlemen who occupied one-tenth of the whole time of the house! If he had been suffered to proceed, the time of the house would have been economised, for he was not in the habit of speaking merely for the purpose of speaking, and had only designed to make a few observations, showing the necessity for his amendment. The judicial district, if it embraced the city and the parishes of St. Bernard and Plaquemines, was too large. The proposition he made did not interfere with the city of New Orleans. The city could have as many judges as it pleased. All that he asked was that the two parishes of Plaquemines and St. Bernard should have a separate judge, to reside and to hold his court at a certain point in either of those parishes, and to relieve the inhabitants from the inconvenience and trouble of being dragged to the city. He thought the request a reasonable one, and he hoped it would be granted.

Mr. LEWIS: I would suggest that that portion of the parish of Orleans on the right bank of the river, be included with the parishes of St. Bernard and Plaquemines, in forming the district.

Mr. WADSWORTH: I have no objection.

Mr. EUSTIS explained that the only reason why those two parishes were placed with the parish of Orleans, in the formation of a judicial district, arose from the fact that there was not enough business in them to occupy the time of a separate judge.

Mr. MARIGNY thought that these parishes were entitled to form a separate judicial district. They comprehended a vast extent of territory, and embraced a sufficient population.

Mr. ROSELIUS opposed the amendment, because, from his own knowledge, there was not sufficient business to occupy a separate judge, nor there would not be, in all probability, for some years to come.

Mr. WADSWORTH thought it a high compliment to the quiet disposition of the people of these parishes, that they were not given to litigation. It showed that they were a moral people and did not violate the laws, but that was no argument why they should be deprived of the facility of having their few disputes settled among themselves, and not be compelled to come up to the city, and there be exposed to encounter great delays, and be put to unnecessary expense and trouble.

Mr. WADSWORTH moved for the adoption of the amendment, and called for the yeas and nays, (Mr. Claiborne in the chair,)

Messrs. Briant, Conrad of Orleans, Dunn, Kenner, Legendre, Marigny, Scott of Feliciana, Soulé, Stephens, Wadsworth and Wederstrandt voted in the affirmative—11 yeas; and

Messrs. Aubert, Beatty, Bourg, Brent, Brumfield, Burton, Carriere, Chambliss, Conrad of Jefferson, Covillion, Eustis, Guion, Hudspeth, Humble, Hynson, King, Labauve, Ledoux, Lewis, McCallop, McRae, Mayo, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Waddill, Wikoff and Winchester voted in the negative—45 nays; consequently said amendment was lost.

On motion, said first district was adopted as reported, viz:

The first district shall be composed of the parishes of Plaquemines, St. Bernard and Orleans.

On motion, the Convention adjourned till to-morrow, at nine o'clock, a. m.

THURSDAY, April 24, 1845.

The Convention met pursuant to adjournment and their proceedings were opened with prayer.

Mr. LEWIS rose and said,

In the French report of my remarks delivered on the evening of the 16th inst., on the report of the judiciary committee, as published in the Courier of the 19th, several passages occur wherein what I said has been entirely misunderstood by the reporter who translated them; for I cannot for a moment imagine that he intentionally misrepresented me. And inasmuch as I understand that some very worthy persons feel aggrieved by my observations, *as published*, I deem it to be due, both to them and to myself, to correct any false impressions that have been created by the mistranslation of those passages.

I am made to say in speaking of the parish judges, "il est vrai de dire que dans sa sphere il fait à peu près ce quil veut; tellement que lorsqu'on passe d'une paroisse à l'autre, on trouve presqu'autant de différence qu'il y en a d'un petit Etat à l'autre dans la confédération germanique."

Now I used no such langage as this; but I did say, in substance, that the partial legislation of this State had made as great a difference between the laws governing the different parishes of the State, as existed between the petty States of the confederation of Germany.

Again I am made to say, "Et certes on ne rencontrera personne qui ne se fasse une conscience de reconnaitre que les abus les plus outrageants accompagnent le systeme actuel." This language is so strong in its terms, and so denunciatory in its character, that I must confess I am at a loss for words in which to translate it into English; but these strong expressions are given as a translation of a simple statement that the parish judge system (as it is called) naturally led to abuses and extravagance, which I then maintained and still maintain.

Again, speaking of these abuses, I am represented as asking, "Mais qu'est-ce donc qui fait ainsi de la justice un moyen d'intérêts pour le juge, et comment peut-on croire que celui-ci ne profitera pas de tout ce qui peut le servir?" And as if to set off and render more striking this implied denunciation of actual corruption in our parish judges, it figures immediately before a statement that there are some of them who, despite the temptation, have remained honest. Now, sir, I was arguing against a system which, by its provisions, made it directly the interest of the judge to decide certain questions in a certain way, and instanced the case of the partition of an estate where it is the interest of the judge to order it to be effected by a sale, because in such case, as auctioneer, he would receive greater fees for a sale than, as notary, he could for making a partition in kind. And I did further say that I had no recollection of a contest as to the mode of making such a partition that did not result in a decree for a sale. I also agreed that it was wrong to subject any man to the temptation to do wrong by making it by law his interest to do so: but I never charged our judges with making a traffic of justice.

One portion of my remarks, also reported in French, has induced a gentleman connected with the probate court of New Orleans to furnish me with the facts connected with the estate to which I referred as having been heavily taxed in its passage through the court of probates. I spoke of that matter entirely from memory, and am free to admit that my picture was an exaggeration, though unintentional, of the original from which it was drawn. But still, for all useful purposes the real facts will sustain my argument as well as the case I put; though the blame, if any be due, must fall rather on others than the law officers.

The facts, as I am now responsibly informed, are these: John Hardiman, a citizen of Missouri, arrived in New Orleans during the prevalence of the yellow fever in 1829, and died. He had deposited in bank before his death, in cash, gold, bullion and dust and silver bars amounting to $23,314 92.

His wearing apparel sold for 20 47

Making a total of $23,335 39

Now it was made to appear some time afterwards, that of this money, &c. there belong-

ed to Gen. Smith, his partner in Missouri a sum of	$13,589 27	
To Agapito Alba, on deposit,	1,890 00	
To Fran. Valverde, on deposit,	3,066 60	
		$18,555 87
Leaving as belonging to the deceased,		4,779 52
Eexclusive of the expenses of the last illness and burial of the deceased, the law charges paid out of this sum amounted to		1,229 08
Of this sum there was allowed to the attorney of the curator,	$350 00	
To do. of the absent heirs,	200 00	
To the curator, 2½ per cent. on the whole sum of $23,385 39,	583 76	
Appraisers, weighers, &c.	12 00	
Court charges,	83 32	
		$1,229 08

These are all the facts necessary to be stated to correct the error I had fallen into in the case referred to. If the estate be considered, as I think it ought to be, as consisting of only $4,779 72, then $1,229 08 for law charges, will not very materially vary the proportion stated by me in round numbers at a third of the estate. But if taken as the court seems to have understood it, (as I think erroneously,) at the sum of $23,335 39, these expenses still exceed five per cent taken out of actual cash deposited in bank, which needed but very little administration. And admitting as I cheerfully do, the most perfect purity in the judge and other officials of the court, this case, I think, furnishes a strong argument in favor of the change in our judicial system, that we have adopted.

I will only add that I never intended to charge corruption upon any of our public officers, but only intended to argue that the system I opposed in its nature, had a tendency to that result.

To the Hon. James Pitot, Judge of the Court of Prvbates in and for the Parish of Orleans:

The answer of Josias E. Kerr, curator of the estate of the late John Hardiman, to the petition of the heirs of said deceased.

This respondent answers unto the said petition, by herewith presenting an account of his administration on the said estate.

Wherefore this defendant prays, that upon the powers forwarded by the said heirs constituting Isaac T. Preston, of this city, their attorney in fact, being acknowledged as genuine, his said account may be approved, and that this defendant be discharged from his trust and his bond as curator, cancelled and annulled upon his paying over to the sad attorney of the heirs of the late John Hardiman the balance due to them by this defendant in his said capacity.

(Signed,) A. MORPHY,
for Cur.

Account rendered by Josias E. Kerr, of his administration on the estate of the late John Hardeman, deceased.

The Curator has received,—

By cash found in bank of the United States,		$18,300 00
By gold, bullion and dust in same bank,		2,828 00
Proceeds of the sale of wearing apparel,		20 47
Balance arising from a shipment of silver bars made to the mint of Philadelphia, through the U. S. Branch Bank, as per agreement,		2,136 92
Total amount received,		$23,335 39

The curatior has paid by order and authorization of the court of probates:

To Wm. K. Knight for lodging, nursing, &c., No. 1.	$65 00
Washing and dressing dec'd, No. 2,	8 00
Medical attendance in last illness, No. 3,	75 00
Tomb and ground in cemetery, No. 4,	141 00
Coffin and hearse, No. 5,	24 00
Attorney for the curator, (Judge A. Morphy,) No. 6,	350 00
Attorney for absent	

heirs, (A. Pitot,) No. 7,	200 00	
Appraisers of clothing and weighers of gold, No. 8,	12 00	
Court charges, No. 9,	37 45	
To —— Smith, by judgment, No. 10,	13,589 27	
To Agapito Alba, by do. No. 11,	1,890 00	
To Fran: Valverde, by do. No. 12,	3,066 60	
Curator commission on $23,335 39 at 2½ per ct. No. 13,	583 76	
Court charges, No. 14,	45 87	
		$20,087 95

Balance in favor of said estate, $3,247 44

Let the petition of Josias E. Kerr be discharged from his trust as curator of the estate of the late John Hardiman and let the bond by him entered into jointly with Manuel Audry as his security be cancelled and annulled, on his paying over to the heirs of said deceased, or their attorney in fact, the balance of the account by him rendered in his capacity, to wit: the sum of three thousand two hundred and forty-seven dollars and forty-four cents.

New Orleans, June 5, 1830.

(Signed,) J. PITOT, Judge.

On motion of Mr. HUMBLE, the vote adopting the fourteenth section was reconsidered.

Mr. HUMBLE then moved to amend said section by adding after the word "senate," in the fifth line, the words "for the term of two years." Which amendment was adopted.

On motion, the section as amended was adopted, viz:

There shall be an attorney general for the State, and as many other prosecuting attorneys for the State as may hereafter be found necessary.

The said attorneys shall be appointed by the governor, with the advice and approbation of the senate, for the term of two years.

Their duties shall be determined by law.

This being the day fixed for the taking in consideration the reports of the committee of revision, on motion, the report of said committee on the executive department, was taken up, viz:

ARTICLE THIRD.

The first section, as reported, was adopted, viz:

SEC. 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years, and together with the lieutenant governor, chosen for the same term, be elected as follows.

The second section was taken up, viz:

SEC. 2. The citizens entitled to vote for representatives, shall vote for a governor and lieutenant governor, at the same time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer created by law, to the secretary of state, who shall deliver them to the speaker of the house of representatives, on the second day of the session of the general assembly then next to be holden. The members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor, shall be lieutenant governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor by the joint vote of the members of the general assembly.

The committee recommend the following correction, viz:

Strike out in the seventh line, the words "created by law;" and the same was adopted.

The section as corrected was adopted, viz:

SEC. 2. The citizens entitled to vote for representatives shall vote for a governor and lieutenant governor, at the same time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning of-

ficer to the secretary of state, who shall deliver them to the speaker of the house of representatives, on the second day of the sessions of the general assembly then next to be holden; the members of the general assembly shall meet in the house of representatives to examine and count the votes; the person having the greatest number of votes for governor shall be declared duly elected; but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor, shall be lieutenant governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor by the joint vote of the members of the general assembly.

The third section was taken up and passed without corrections, viz:

Sec. 3. No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election.

The fourth section was taken up, viz:

Sec. 4. The governor shall enter in the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and his successor shall have taken the oath or affirmation prescribed by this constitution.

On motion of Mr. Beatty, the words "his successor," in the seventh line, was struck out; and the section, as corrected, was adoptod, viz:

Sec. 4. The governer shall enter in the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and shall have taken the oath or affirmation prescribed by this constitution.

The fifth section was taken up and adopted, viz:

Sec. 5. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

Section sixth was taken up and adopted, viz:

Sec. 6. No member of Congress, or persons holding office under the United Sates, or minister of any religious society shall be eligible to the office of governor or lieutenant governor.

The seventh section was taken up and adopted, viz:

Sec. 7. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the power and duties of his office shall devolve upon the lieutenant governor for the residue of the term, or until the governor absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

Section eighth was taken up and adopted, viz:

Sec. 8. The lieutenant governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he contined in office.

The ninth section was taken up and adopted, viz:

Sec. 9. The lieutenant governor shall by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

The tenth section was taken up and adopted, viz:

Sec. 10. While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of respresentatives, and no more.

The eleventh section was taken up and adopted, viz:

Sec. 11. The governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures after conviction. In cases of treason he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

The twelfth section was taken up and adopted, viz:

Sec. 12. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

The thirteenth section was taken up and adopted, viz:

Sec. 13. He shall be commander in chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States.

The fourteenth section was taken up and adopted, viz:

Sec. 14. He shall nominate and appoint with the advice and consent of the senate, all officers whose offices are established by this constitution, and whose appointments are not herein otherwise provided for; *Provided*, however, that the legislature shall have a right to prescribe the mode of appointment to all other offices to be established by law.

The fifteenth section was taken up and adopted, viz:

Sec. 15. The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for by this constitution.

The committee of revision recommend the following correction, viz: to strike out from the second line, the word "up," which correction was adopted, and the section as corrected, was adopted, viz:

Sec. 15. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution.

The sixteenth section was taken up and adopted, viz:

Sec. 16. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

The seventeenth section was taken up and adopted, viz:

Sec. 17. He shall, from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

The eighteenth section was taken up, viz:

Sec. 18. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from contagious disorders; and in case of a disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

Mr. Read moved to correct said section by striking out in the seventh line, the words "with respect" and insert the word "as," which correction was adopted, and the section as corrected was adopted, viz:

Sec. 18. He may on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

The nineteenth section was taken up and adopted, viz:

Sec. 19. He shall take care that the laws be faithfully executed.

The twentieth section was taken up, viz:

Sec. 20. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon their journal, and proceed to reconsider it; if after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be

reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been sent to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall be a law, unless sent back within three days after their next meeting.

Mr. ——— moved to correct said section by striking out in the fifth and sixth lines the words "shall have," which motion prevailed.

Mr. BENJAMIN moved to strike out in the sixth line the word "who" and insert in lieu thereof the word "which," and in the seventh line to strike out the word "their" and insert the word "its," which motion prevailed, and the section, as corrected, was adopted, viz:

SEC. 20. Every bill which shall have passed both houses, shall be presented to the governor; if he approve, he shall sign it, if not, he shall return it with his objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been sent to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

Section twenty-first was taken up and adopted, viz:

SEC. 21. Every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of both houses.

The twenty-second section was taken up, viz:

SEC. 22. A secretary of state shall be nominated and appointed by the governor, with the advice and consent of the senate, and commissioned to hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings of the governor, and when necessary, shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

The committee of revision recommend the correction of the first paragraph of said section as follows, viz:

"There shall be a secretary of State, who shall hold his office during the time for which the governor shall have been elected," which correction was adopted, and the section, as corrected, was adopted, viz:

SEC. 22. There shall be a secretary of State, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings of the governor, and when necessary, shall attest them. He shall, when required, lay said register, and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

Section twenty-third was taken up and adopted, viz:

SEC. 23. All commissions shall be in the name, and by the authority of the State of Louisiana, and shall be sealed with the State seal, and signed by the governor.

Section twenty-fourth was taken up and adopted, viz:

Sec. 24. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

Section twenty-fifth was taken up and adopted, viz:

Sec. 25. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

On motion of Mr. Mayo, the 21st section was reconsidered, viz:

Sec. 21. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses.

Mr. Mayo moved to amend said section by inserting after the word "of," in the 8th line, the words "the members elected of;" which motion prevailed, and the section as amended, was adopted, viz:

Sec. 21. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected of both houses.

On motion of Mr. Peets, the vote rejecting the substitute offered by Mr. Beatty, was reconsidered, and the substitute taken up, viz:

The first legislature assembled under this constitution shall divide the State into not less than fifteen judicial districts, nor more than twenty-four, which shall remain unchanged for six years thereafter, and be subject to reorganization once in every six years only; for each of which districts one judge, learned in the law, shall be appointed.

Mr. Ratliff moved to strike out the word fifteen and insert twelve. There would be two of the districts that certainly would not be sinecures. He referred to the district composed of East and West Feliciana, and to this district, perhaps, the district of Rapides might also be included in the same remark. He was told that the other districts would be sinecures at present. It was better to leave it discretionary with the legislature, to make any increase over twelve that was necessary, and restrict the maximum number to which they should go at eighteen.

Mr. Dunn said that the object was not to render justice economically, but to render it efficiently and properly. It was to bring justice home to the door of every one. Not that A. and B. in particular should be favored, but that every one should receive justice. A. asked for the curatorship of an estate, B. opposed him. What is to be the practice? Are the parties to be sent for, or are they to go and seek the judge? In the mean time, what becomes of the effects of the deceased. If they do not go in search of the judge, they must wait until he comes in their neighborhood. It is not surely in reference to the number of saits, that we should establish the courts, but it is in order that every parish should have the means of a ready and prompt administration of justice. If there be but one individual in a parish who is wronged and oppressed, he has a right to be heard and protected. If large districts be established you embarrass the administration of justice and expose the inhabitants to great inconvenience, when they seek redress through the laws of the country. It is no argument to urge, that because the people of a parish are not litigous they are to be debarred the facilities of courts in their immediate vicinity. If there be but one case in a parish, it is entitled to an immediate and speedy trial. The object in instituting courts is to render justice immediately. A parish with a few suits is as much entitled to have them promptly decided as a parish with five hundred suits.

There should be as many courts as were necessary to meet the wants of the inhabitants of each parish, without subjecting them to the inconvenience of waiting for the return of the judge, and to the delays that would result from imposing upon him the duty of attending to a large extent of country. In East and West Feliciana two judges are indispensable, the accumulation of business is very great. He trusted that his colleague from West Feli.

ciana (Mr. Ratliffe) would reconsider the motion he had made, for it was unjust to make the districts so large as to deprive the people of a parish of the facility of being heard without unnecessary delays, and having their contests promptly settled.

The question was taken upon the motion of Mr. Ratliff, to strike out the word fifteen and insert the word twelve, and the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Beatty, Benjamin, Chinn, Eustis, Kenner, King, Labauve, Legendre, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Stephens, Taylor of Assumption, Trist, Waddill and Winchester voted in the affirmative—27 yeas; and

Messrs. Aubert, Bourg, Brumfield, Burton, Carriere, Cénas, Chambliss, Claiborne, Covillion, Dunn Garrett, Guion, Hudspeth, Humble, Hynson, Ledoux, Lewis, Marigny, O'Bryan, Pugh, Sellers, Taylor of St. Landry, Wederstrandt and Wikoff voted in the negative—24 nays; consequently said motion was carried.

On motion of Mr. Ratliff, the blank was filled with the word "twelve."

Mr. Labauve moved to amend said substitute by fixing the maximum of the districts at twenty; he therefore moved to strike out after the word twenty, the word four. The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Carriere, Chambliss, Chinn, Eustis, Guion, Hynson, Kenner, King, Labauve, Legendre, McCallop, Marigny, Peets, Porter, Prudhomme, Pugh, Ratliff, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Soulé, Stephens, Taylor of Assumption, Trist, Waddill and Winchester voted in the affirmative—34 yeas; and

Messrs. Covillion, Dunn, Garrett, Hudspeth, Humble, Ledoux, Lewis, McRae, Mayo, O'Bryan, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Sellers, Taylor of St. Landry, Wederstrandt, and Wikoff voted in the negative—18 nays; consequently said motion was carried.

Mr. O'Bryan moved to amend said substitute by striking out the word "twenty;" which motion was lost.

Mr. Beatty moved for the adoption of the substitute as amended, viz:

The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter. The number of districts shall not be less than twelve nor more than twenty. For each district one judge learned in the law shall be appointed.

The yeas and nays being called for on the adoption of the above substitute, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Bourg, Briant, Brumfield, Burton, Carriere, Cénas, Chambliss, Chinn, Covillion, Eustis, Garrett, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Prescott of Avoyelles, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge Scott of Feliciana, Sellers, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Wadsworth, Wederstrandt, Wikoff and Winchester voted in the affirmative—45 yeas; and

Messrs. Brazeale, Dunn, Humble, O'Bryan, Porter, Preston, Saunders and Waddill voted in the negative—8 nays; consequently said motion was carried, and the substitute was adopted.

On motion of Mr. Mayo, the sixteenth section was taken up, and laid on the table indefinitely, viz:

Sec. 16. After the first of January eighteen hundred and fifty-one, the legislature may reorganize the said district; which shall remain unchanged for ten years thereafter, and be subject to reorganization once in every ten years; provided the number of districts shall never be less than eighteen nor more than twenty-four.

On motion the seventeenth section was taken up, viz:

Sec. 17. Whenever a new parish shall be formed out of two or more parishes belonging to different districts, the said new parish shall be attached to one of them.

Mr. Chinn moved that the said section be laid on the table indefinitely; which motion was lost.

On motion the said seventeenth section was adopted.

On motion the eighteenth section was taken up, viz:

Sec. 18. Each of said judges shall receive a salary of not less than twenty-five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practised law therein for the space of five years.

Mr. Porter observed that in his district the residence and the age required in this section would operate injuriously. It would exclude men of talents who had come there since 1830; and it would be difficult to make the appointments within the districts. Therefore it would be better to insert a clause that the rule should not apply in relation to the first appointments to be made in that section of country.

Mr. Wadsworth was opposed to any exceptions. The rule ought to be general. The best mode at arriving at the object of the delegate would be to propose to reduce the time.

Mr. Ratliff moved to amend said section by striking out in the fourth line the word "thirty" and insert in lieu thereof the word "twenty-six;" which motion was lost.

Mr. Read submitted the following as a substitute for the first paragraph, viz:

The legislature shall provide an adequate compensation for each of said district judges, which shall not be increased or diminished during his term of office.

Mr. Garrett moved to lay the above substitute on the table indefinitely; the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Bourg, Briant, Brumfield, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mayo, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Stephens, Taylor of St. Landry, Trist, Wadsworth and Winchester voted in the affirmative—36 yeas; and

Messrs. Brazeale, Burton, Chambliss, Covillion, Humble, Hynson, McCallop, McRae, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Taylor of Assumption, Waddill, Wederstrandt and Wikoff voted in the negative—23 nays; consequently the motion was carried.

Mr. Porter submitted the following amendment, to be inserted at the end of the section, viz:

Except in such judicial districts as the major part of the parishes of which have been organized since the year 1840, and that the exception only extends to the first apportionment of judges.

On motion of Mr. Winchester said amendment was laid on the table indefinitely.

Mr. Ratliff said that in the anxiety to expedite the proceedings of the Convention, he was apprehensive that the house would sanction a provision which would convert the legislative halls into an arena for electioneering. If we give the facility to the legislature to increase the compensation, we shall find some members of the judiciary taking such steps as will ensure them an increase of salary. They will endeavor to elect such persons to the legislature as are favorable to their design, and that body will be so importuned that they may lend a willing ear to the applications that will be made to them from time to time. He would suggest the following modification, "that the salary shall not be increased nor diminished during the period for which said judges were appointed."

Mr. Wadsworth said it was indispensable to place confidence somewhere, and if we have no confidence in the legislature, we cannot have confidence any where to carry out the fundamental principles of the government. It was a strange notion to believe that twenty or thirty men could dictate to the legislature their salaries, and get what they pleased. If we fix the compensation in the constitution, it may be too much or too little, and that is a serious objection. We must, from the nature of things, leave it to the legislature, with the restriction in the section to a minimum amount, so that it may not be in the power of temporary majorities in the legislature to starve the judges out.

Mr. Miles Taylor would suggest a substitute, and would explain his views in a very few words. The object designed was to take away the temptation of seeking an increase of salary, and to place the compensation beyond the immediate power of

the legislature, a power which they might possibly exercise to the injury of the incumbent, and with the sole view of driving him from his station. It seemed to be the sense of the house that the salary should be permanent during the term of service of the judge. Some inconvenience might result if this were not provided for. I do not say that such inconvenience will result; but in the view of any possible inconvenience, and it will at least preclude the personal solicitations of the judges, I am induced to offer the following as a substitute. The amendment of the delegate from West Feliciana (Mr. Ratliff) that the salary should not be increased nor diminished during the term of service of the actual incumbent, might be construed that it could be diminished afterwards, and thus defeat one of the objects contemplated in the preparation of the original section. In my substitute I have retained it:

"Each of said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, which salary shall never be less than two thousand five hundred dollars, annually."

On motion, the section as amended was adopted, viz:

Sec. 18. Each of said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, which salary shall never be less than twenty-five hundred dollars. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practised law therein for the space of five years.

On motion, the nineteenth section was taken up, viz:

Sec. 19. The judges of said district courts, and of the courts to be established in the cities of New Orleans and Lafayette, shall hold their offices for the term of six years, and shall be appointed by the governor, by and with the advice and consent of the senate; *provided*, that when the first appointments made under this constitution, are made, six of said district judges shall be appointed for the term of two years, six for the term of four years, and six for the term of six years.

Mr. Benjamin offered the following as a substitute for all the words coming in at the seventh line, to the end of the section, viz:

"The judges shall be divided by lot into three classes, as nearly equal as may be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years."

Mr. Brent moved to amend by inserting "four years" instead of "six years," in the third line.

Mr. Kenner moved for a division, that is, strike out first the word "six," which motion prevailed.

The question recurring on Mr. Brent's motion to reduce the term of office to four years,

Mr. Preston said that he hoped that this amendment would prevail. He had considered it a great evil to make the tenure to judicial office for life. The State was about to abandon that unfortunate and mischievous principle, and he trusted we should not fall into a similar error of making the appointments for too long a period. Four years were abundantly long. The highest offices of the country, the chief executive office of the United States, was held but for four years. There was no reason that these judges should be appointed for a longer time than the highest officers of the country. There was an appeal from their decisions, both as to the law and to the facts, and the supreme court were appointed for eight years, which would give all the uniformity to the decisions that could be desired. In this country, six years was almost a life estate. It would subject us to many of the evils of a life appointment; it would have a tendency to promote listlessness and indifference on the part of the inferior judges, and an exception from that personal responsibility which was so desirable. It would give occasion to neglect and to procrastination. Men's disputes would not be settled with promptitude, but would be put off upon frivolous pretences.

But, say gentlemen, and this is all the objection they have to urge; the judiciary will not be sufficiently independent, and no one will accept the appointment. That was a mistake. The office would be accepted, and readily accepted; and as for independence, the incumbent would be as independent with a limited term as with a permanent

term, so far as a proper discharge of their duties were involved. Those who fulfilled their duties with fidelity would be sure to be re-appointed. This had been demonstrated when the experiment was tested in Connecticut. It had met, in that State, with complete success. The judges were elected from term to term, that is to say every six months, and yet were even retained when they became superannuated. Preserve the feature of responsibility to the people, and you will have an efficient judiciary.

Mr. KENNER moved for the previous question on the whole section, which motion prevailed.

The yeas and nays being called for on the motion of Mr. Brent, to strike out "six," (Mr. Saunders in the chair,)

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Soulé, Stephens, Taylor of Assumption, Trist, Waddill and Wikoff voted in the affirmative—27 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cènas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux Legendre, Lewis, McCallop, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Taylor of St. Landry, Wederstrandt and Winchester voted in the negative—31 nays; consequently the motion was lost.

Mr. BRENT moved to amend by striking out in the fourth line the word "governor," and insert in lieu thereof "qualified electors of each district."

Mr. BRENT moved to reconsider the vote ordering the previous question.

Mr. M. TAYLOR: I did not vote for the previous question, when it was moved and carried, and I can see no more occasion to stop debate now than then.

The yeas and nays being called for (Mr. Saunders in the chair,)

Messrs. Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Eustis, Humble, Hynson, Ledoux, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Sellers, Soulé, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—27 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Scott of Feliciana, Taylor of Assumption, Taylor of St. Landry, Wikoff and Winchester voted in the negative—32 nays; consequently said motion was lost.

The yeas and nays being called for on the motion of Mr. Brent, to strike out the word "governor," (Mr. Saunders in the chair,)

Messrs. Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Ratliff, Read, Scott of Baton Rouge, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—23 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Roselius, St. Amand, Scott of Feliciana, Sellers, Soulé, Taylor of Assumption, Taylor of St. Landry, Wikoff and Winchester voted in the negative—37 nays; consequently said motion was lost.

Mr. LEDOUX said that in voting for the appointment by the governor of the judges of the supreme court, he was but carrying out the views of a large majority of his constituents, who preferred that mode of appointment. He felt bound to express their will in the vote he gave, but he wished it to be understood that he was in favor, and even would be in favor of an elective judiciary, deeming it the best, the wisest and safest mode of appointment, and the one most in accordance with the true principles of our institutions.

On motion, Mr. Benjamin's amendment was adopted, and

On motion, the nineteenth section, as amended, was adopted, viz:

SEC. 19. The judges of said district courts, and of the courts to be established in the cities of New Orleans and Lafayette, shall

hold their offices for the term of six years, and shall be appointed by the governor, by and with the advice and consent of the senate; *provided*, that when the first appointments made under this constitution, the judges shall be divided by lot into three classes, as nearly equal as may be, and the the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

The Convention then took up Mr. Soulè's section, to come in between sections nineteen and twenty.

The appointing power with respect to judges shall be exercised by the governor, in the manner following to wit: He shall name and present three competent persons, leared in the law, and having practised at least five years in the courts of the State, for every office to be filled in the judiciary department; and the senate shall make their selection from the three persons thus named and presented, and shall vote *viva voce* and with open doors; *provided*, no appointment shall be effected unless it meets the concurrence of a majority of all the members composing the senate, and provided the judge, the expiration of whose time shall give occasion to an appointment, be one of the three first presented by the governor to the choice of the senate. After three unsuccessful attempts to make a selection, it shall be the duty of the governor to name and present three other persons, and so on, until a choice be effected.

Mr. Soule said that his object in presenting this additional section, was to place the executive power in such a position that it would be impossible for the executive to listen to his predilections in the choice of persons to be ratified by the senate. The measure he proposed was a due medium between the election of the judges by the people, and their appointment by the governor. The members of the senate being elected for four years, would imbibe the popular feelings, and their choice would be the choice of the people; whereas, if the governor were to appoint, he might be influenced by whim or caprice, and make an appointment that would not give general satisfaction. The favor and personal partialty of the governor would not in all probability, extend to all three of the candidates he might send in, and the senate would have ample opportunity to make a proper selection. It may, however, be urged, that the plan is defective in this, inasmuch as the governor might send in the name of his favorite with the names of two others, that were clearly incompetent, and thus force the senate to a choice. But upon examination of the section, it will be seen that this objection has no force. It provides an efficacious remedy, for it is the duty of the governor, should the senate fail to make a choice, to name and present three other persons, and so on, until a choice shall be effected. I presume that it will not be pretended that the governor will be at any loss to find three competent persons to recommend to the senate. I think the plan is clearly feasible. Now, as to the benefit to be derived from it, it will destroy the patronage of the governor, so far as the judiciary are concerned, and will guarantee to the people a direct agency in the selection of their judges through the senate. It will be observed, also, that provision is made that the governor shall not remove the actual incumbent without the assent of the senate, for the section requires that among the three names first presented by the governor, shall be the judge, the expiration of whose time shall give occasion to the appointment.

Mr. Ratliff said there were some good dispositions in the section, and yet without some modification, he feared it would be impracticable. The mode of selection was not without inconvenience. The governor, if he were animated by a sentiment of duty, would present three of the most competent persons he could find willing to accept the office. Now it might happen that their claims were nearly equal, and having each their friends in the senate, it would be difficult, if not impossible, to make a choice. It would be impossible to make a choice if the friends of each candidate were to hold out, and that might well enough happen. I think that this objection ought to be obviated, and I would suggest it to the author, so that he may modify the section.

Mr. Roselius said that if there were no other objection, there was one that was conclusive, the plan was impracticable. The governor was to begin by sending in the names of three persons, and continue to send in successively the names of three

persons, until it pleased the senate to make a choice. It went on the presumption that competent persons were as plenty as blackberries. It is now found difficult to select one individual in a district, that united all the necessary qualifications. And by this proposition, the governor is to find three, and as many more threes as may be necessary to effect a choice. Suppose there was but one in the district that was competent, and the people of the district, through pride or jealousy, were averse to a selection out of the district, how would the governor get three competent persons, and three more, if the first three were rejected! In any case, three competent persons would scarcely consent to be dragged before the senate, when it was positively certain that two of them would be rejected. He did not know how other gentlemen would feel, but for himself, he certainly would feel mortified if he were nominated to be rejected, and he presumed it would be the same with most men. If three were nominated, in any case, is it not clear as the sun at noon-day, that two of them would be rejected. It amounted to an absolute certainty. His colleague (Mr. Soulé) had said that this was a middle course; in effect it was taking away from the executive any participation but a nominal one in the appointment, and transferring it to the senate. It vested the appointing power in fact, in the senate, and instead of being the best, it was the very worst mode of making the appointment. There was only one thing in the section that met his concurrence. It was this, that it should be the duty of the governor to present the name of the actual incumbent to the senate. If this disposition were detached, he would vote for it.

Mr. C. M. Conrad said that in addition to what fell from his colleague, (Mr. Roselius) that there were manifold inconveniences which would result from such a mode of appointment. There were a number of district judges to be appointed, and for each appointment the governor would have to send in three names, and from the rejections that would necessarily take place in so large a number, it was not unreasonable to infer that some one hundred and eighty names to two hundred names would have to be sent in for the district courts alone. For the supreme court, alone, twelve names would have to be sent in, and so on in proportion until the four judges were appointed. It has, heretofore, been very difficult to fill the vacancies on the bench of the supreme court, with the certainty that the nomination would be confirmed. It would be very difficult to find three persons who would be willing to allow their names to be presented, with the conviction that two of them were foredoomed. They would not like to have their names put in juxtaposition and to undergo the humiliation of a rejection.

There was one feature which met with his concurrence. It was a happy idea to give permanency and stability to our judiciary, under its new organization. It placed the judge beyond the mercy and caprice of the executive. If he had discharged his duties faithfully, and to the satisfaction of the community, it gave the opportunity to the senate to retain him, and made him independent of the executive will. He would like to see that feature consecrated in the constitution.

Mr. Claiborne said that although he was opposed to the section, because he not only conceived it inexpedient, but impracticable; yet he concurred in opinion with his colleagues that had preceded him, that there was a very admirable feature that ought to be retained and preserved in the new constitution. He alluded to that provision which made it incumbent on the executive to present the name of the actual incumbent for re-appointment. It gave to the senate the opportunity to determine whether the incumbent had properly and efficiently discharged his duties, and if he had, to retain him; and in that way it held out an inducement to a strict and faithful discharge of duty. It was to the interest of the community to retain a good officer, especially a judge; for immutability in the administration of justice was no less essential than equity. With the view of embodying the principle, he would beg leave to offer a substitute for the section. It would deprive the governor of the opportunity of presenting his friends, or a partisan, to the exclusion of the actual incumbent, who may have given general satisfaction.

Mr. Claiborne then presented his substitute, which was as follows:

"Whenever the term of service of judicial officers shall expire, the governor shall nominate to the senate for the succeeding term the actual incumbent, and he shall continue to do so at the expiration of each term, unless the incumbent shall signify in writing, his desire not to be reappointed."

Mr. SOULE considered that this substitute would have the effect of creating a judiciary for life. It would completely nullify that disposition in the new constitution which limited the tenure of their offices to a limited period. It might happen (he said) that his proposition was erroneous, but it was at least consciencious. He thought it expedient in the dipositions provided in his section that the senate should have the means of reviewing the official conduct of the incumbent, and if he were worthy, to continue him in the public service. Another object which he had hoped to secure, was to place the selection of the judiciary beyond the personal feelings and inclination of the executive, and beyond the influences that might control that officer. He thought that by placing the power of confirming the selection from those that the governor would present, it would secure an appointment that would be more satisfactory to the people. His proposition was but a modification of the existing system. Instead of restricting the senate to one nominee, as at present, it presented three, one of whom they were to approve, if deemed satisfactory.

Was there any real difficulty in the plan he proposed, as to the inability of the governor to find the number of persons necessary to be sent before the senate, for final selection. To hear his two colleagues (Messrs. Roselius and Conrad) one would suppose it presented an insuperable obstacle. So far from there being any dearth of candidates, the reverse would be the case. There would be a multiplicity of them, anxious to submit their claims to the final action of the senate. When it is asserted that it would be difficult to find one man in some of the districts, who was competent, I cannot but think it casting an unworthy reproach upon the intelligence of our citizens. I have a higher and a juster idea of their merits. So far from there being but one, I do believe there are few, if any districts, where there are not a plurality of citizens capable of holding any office in the State.

But we are told that if there is but one person who is capable in the district, what is the governor to do? This supposes an extreme case; but admitting that it did occur, the governor could select two other persons from an adjacent district, and the senate would determine, under the peculiar circumstances, between the candidates. The object which he designed was to place that deparment of government in whose hands were placed the life, liberty, reputation and property of the citizens beyond all political influences; and by requiring the governor to present three persons to the senate, a more enlarged choice would be given to that body, in confirming the appointments made. By requiring that one of the three persons sent in should be the actual incumbent, the governor would be deprived of the opportunity of removing a good officer, in order to gratify personal or political motives. But it is said that this plan would result in forcing the senate to make a choice in accordance with the governor's will. That the executive would send in one person that was capable and two that were incapable. This objection has no valid existence. It would not be in the power of the executive to force the senate to a choice, for their action would be as unlimited as it is under the existing system of nominating one person, and they could continue to reject, until a suitable appointment, in their opinion, was made. Until, said Mr. Soulé, I hear some good and valid objection, I must incline to the opinion that this section ought to be incorporated into the constitution.

Mr. DUNN said that to obviate the objections that had been raised, it might be provided in the section that the governor should nominate no person without his consent, and that after sending in three names without a choice being effected, he should then nominate but a single person.

Mr. KENNER said that he would move, as a test, that the amendmentb be laid on the table indefinitely. But before doing so, he would beg leave to make one or two remarks. The tendency of the section was to place the appointing power in the senate, in place of vesting it in the two branches of the legislature on joint ballot, as had been proposed by the delegate from

Caddo (Mr. Porter). The object was to take the appointing power out of the hands of the executive. It would, however, be in the power of the governor to control the appointment, for he could send one person that was competent and two others that were incompetent. In this way he would fulfil the letter but not the spirit of the provision. It would lead to great inconvenience and to much abuse; and if I were restricted to this mode of appointment, and to a direct choice by the people, I would prefer the latter.

Mr. Claiborne begged permission to make a few explanations. He had not, as was inferred by his colleague (Mr. Soulé), the remotest intention of presenting any thing, to revive a judiciary for life. He han opposed the section offered by his colleague, (Mr. Soulé) benause he thought it impracticable. There was one feature in the section which he conceived to be judicious, and he had retained it in the substitute which he had had the honor of presenting. It placed the judicial incumbent beyond the mere will and caprice of the executive. He thought it a wise and salutare principle. But inasmuch as the delegate from Ascension (Mr. Kenner), manifested the intention of moving to lay the original section indefinitely on the table, he would beg leave to withdraw it.

Mr. Kenner moved to lay on the table, indefinitely, the additional section of Mr. Soulé, which motion was carried.

On motion, the Convention adjourned till to-morrow at 9 o'clock, a. m.

Friday, April 25, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings with prayer.

Mr. Ratliff, chairman of the committee on contingent expenses, submitted the following resolution, and the same was adopted, viz:

Resolved, That the committee on contingent expenses be authorised to issue a warrant in the usual form for the sum of forty-four dollars and twenty-nine cents in favor of James Carpenter, sergeant-at-arms, in remuneration for that sum expended by him for the use of the Convention.

On motion of Mr. Benjamin, the vote adopting the substitute of Mr. Beatty was reconsidered, and the same taken up, viz:

The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter; the number of districts shall not be less than twelve nor more than twenty. For each district one judge, learned in the law, shall be appointed.

Mr. Benjamin moved to amend said substitute by adding at the end of the same the following amendment, viz:

"Except in the districts in which the cities of New Orleans and Lafayette are situated, the legislature may establish as many district courts as the public interest may require;" which amendment was adopted.

Mr. Benjamin's amendment was adopted, and the section as amended was then re-adopted.

On motion of Mr. Eustis, the vote adopting the first section of article fourth was reconsidered, and the same was taken up, viz:

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, *in* justices of the peace, and such other courts in the cities of New Orleans and Lafayette as the legislature may from time to time direct.

Mr. Eustis moved to amend said section by striking out the words "and such other courts in the cities of New Orleans and Lafayette as the legislature may from time to time direct;" which amendment was adopted.

On motion, the section as amended was adopted, viz:

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, and in justices of the peace.

ORDER OF THE DAY.

The question under consideration at the adjournment, was the following section, submitted by Mr. Mayo, viz:

The senate, in acting upon the nomination of the judges made by the governor, shall vote *viva voce*, with open doors, and the votes of at least seventeen senators shall be necessary to confirm a nomination.

To which section Mr. Taylor offered the following substitute, viz:

A majority of all the members elected to the senate shall be required for the confirmation or rejection of officers appointed by the governor, with the advice and consent of the senate, and the senate, in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments, respectively, shall be entered on a journal, to be kept for that purpose, and be made public at the end of each session, or before.

Mr. KENNER moved to amend said substitute by striking out the words "and made public at the end of each session, or before," and insert the following words, "and to be published at the discretion of the senate."

Mr. TAYLOR of Assumption, said he hoped that this amendment would not be adopted; it would defeat the object designed, and would continue a state of things which had given rise to a great deal of complaint. The phraseology of his (Mr. Taylor's) substitute, was similar to that adopted in the constitutions of other States of the Union. The usage has grown up in this State to enshroud all the proceedings of the senate, in relation to executive appointments, in an impenetrable veil of mystery. In all the other States there is an executive journal published. It has been considered of the utmost importance to show how the agents of the people have discharged the trust reposed in them; but here, the utmost secrecy is observed; there is no such thing as an executive journal kept, and the members of the senate can be held to no greater responsibility than were the Venitian council. This mode of proceeding has outraged the public sentiment of the State, and it is for the purpose of insuring publicity to the proceedings, and to enable the public eye to scrutinize them, that it is deemed necessary to introduce a positive provision into the constitution, requiring these proceedings to be made public, to show in what manner the senators have performed the delicate and important functions devolving upon them in executive session. That they should no longer have the power to act as a secret conclave, and avoid the responsibility which should devolve upon them when acting upon executive nominations. If it be left discretionary with the senate to publish or with-hold their proceedings, it will, in effect, defeat the object of attaining publicity, and there will be no means of ascertaining whether the constitutional requisition that a majority of the members should vote for the approval or rejection of the nomination, has been complied with.

Mr. KENNER said that the delegate from Assumption (Mr. Taylor) mis-apprehended the object he had in view, and had mis-apprehended the system. Whether the evil complained of by that delegate, originated in the constitution, or had grown up from usage, he was unable to say; but the course of proceedings upon executive nominations were this: A box was placed before the members and they deposited into it a white or black ball, accordingly as they were favorable or unfavorable to the nomination. It was impossible to know who deposited a particular ball, unless the members chose to reveal it; and it was thus optional with the member to avoid all responsibility. He was far from approving of any such a system, for it enabled a member to indulge in personal and political feelings, which, before the people, or in an open senate, he would not dare to do, and that with perfect impunity. The calling of the yeas and nays upon nominations would preclude that evil. But there might be particular cases, where the senate, in the exercise of a sound discretion, should have the power to with-hold particular proceedings, for a time, from publicity. These proceedings, and the votes of each member, would be known to the body themselves, but it might be found expedient not to promulgate them at once. This was obviously the case in relation to pardons. If you trust your senate with the power of participating in appointments, and in granting pardons, surely they are worthy of some discretion in the matter of giving publicity to particular executive proceedings. With the amendment he proposed, he heartily concurred in the measure, as one every way proper and expedient.

Mr. BEATTY said that the discussion upon this question would come up more appropriately in the general provisions, and therefore suggested that it lay upon the table subject to call.

The PRESIDENT of the Convention said that his experience for a number of years, as a member of the senate, had convinced him that a reform was indispensably ne-

cessary, as regarded the secret nature of proceedings upon executive nominations. In point of practical results it was a mere farce. I know of no case where the senate have acted upon an executive nomination, to which the least interest was attached, that the whole matter was not in the possession of the public. I have been told immediately after leaving the senate, how each member voted, and that, notwithstanding the greatest discretion which I myself invariably observed upon these matters.

For myself, my political opinions are so well known, and I act with so little concealment, that I am indifferent as to whether my votes and opinions transpire on such occasins; but inasmuch as the assumed secrecy of the proceeding of the senate is no more than a mere farce, it may happen that certain persons may throw their responsibility upon others, and I really think that the Convention ought to put a stop to this objectionable mode of acting upon appointments.

Mr. Beatty moved to lay the substitute and amendment on the table subject to call, which motion was lost.

The question recurring on Mr. Kenner's amendment,

Mr. Lewis said that he was opposed to it, because it allowed a majority of the body to conceal proceedings which ought to be known to the community. It was often the case that censure was cast upon a citizen, nominated to a responsible office, with the sole view of defeating his nomination. It was but proper that the resposibility should be assumed, and that the people should know who took the responsibility, or rather who was afraid to let that responsibility be known. He could not conceive of any case which authorized these proceedings to be wrapped up in impenetrable darkness. As for the objection of the delegate from Ascension, (Mr. Kenner) that the proceedings had upon recommendations to pardon from the governor, should be secret, that had nothing to do with the matter under consideration. It was known who the governor nominated, and why should not the action of the senate upon the nomination be known? In relation to the secrecy observed by the United States senate, the case was widely different. The senate of the United States was a portion of the treaty making power, and in reference to some of its proceedings, it was necessary that secrecy should be observed. But here there were no good reasons for mystifying the proceedings had upon nominations. It was known when the individual was rejected, and it was due to him, as well as to the community, that the reasons for this rejection should be made known. He hoped the proposition would be adopted, that the amendment, which in part defeated the object intended, would be rejected.

Mr. Eustis would merely state that if the proposition of the delegate from Lafourche (Mr. Taylor) prevailed, it would make an entire change in the system of nominations. If it be the sense of the Convention to adopt it, I have nothing to say. But I will avail myself of this occasion to state the principles upon which I conceive the system to rest. It may be said that there is a choice of difficulties, and gentlemen have a right to complain of the results of the present system in some instances. There are, however, no general measures where justice will not occasionally suffer. It is true that by the existing mode that there is no responsibility, that there is a freedom from restraint, and that the nomination is in a word submitted to the unlimitted will of the senate. This independence would, with a conscientious man, insure a good choice, but with a bad man, one actuated with improper motives, it would influence him to act solely with regard to his personal views, and without considering the public interests. The president has told us that he had been called to account why he voted so and so. That man had enough nerve, but all men have not that command over themselves, to do their duty, regardless of the responsibilities they may incur. I have no doubt that there are men that do not care whether their votes on such occasions are known or not; but there are others who, from a natural timidity as well as from a disinclination to incur personal responsibility, that would prefer to avoid that responsibility. They would hesitate even in the discharge of what they conceived a paramount duty, by defeating a nomination, to incur the vengeance and ill-will of the individual who was rejected. After calculating the advantages and disadvantages of the system, I come to the conclusion that upon the

whole it is better to retain it. If the Convention however, think differently, so be it. The only wish that I have is, that that their votes should be given understandingly upon the matter. I am apprehensive that, if the substitute be adopted, we shall entail infinitely more evils than can flow from the present system.

Mr. Marigny: It is an error to suppose that moral courage, like physical courage, is within the volition of a man. If you adopt the substitute which has been proposed, you will create a senate which, instead of being independent, will become the mere slave, or, at best, the mere creature of applicants for office. As far as the judgment of a senator finds a defence in his entire exemption from personal dissatisfaction, so far will he dread the effects of publicity; and you will find that through the fear of creating personal enemies, he will sacrifice the public interest, and that in spite of the best intentions. I had the honor for more than seven years of holding a seat in the State senate, and I am perfectly familiar with this subject of executive nominations. The most courageous and the boldest debator would, in reality, be the most timid if the doors were opened when the questiou was to be taken upon the approval or rejection of the nomination made by the governor. We have been referred to those that know their duty alone, and would fulfill it in spite of all opposition. I know that there are men of that character that have filled seats in the senate and some of the members of that body will recollect that I invariably voted in the most open and unconcealed manner; and that I was regardless of what might be the consequences of my official conduct. But the exception does not form the rule, and we should be careful how we base legislation upon the exception instead of the rule itself. I hope that the section will not be adopted.

Mr. Walker asked the indulgence of the Convention to make a few remarks in reply. The great experience of the gentleman (Mr. Marigny) entitled his opinions to great weight, and it was with diffidence he differed in opinion from that gentleman. For some years past, at any rate, this assumed secrecy of proceedings in the senate upon appointments has amounted to a mere farce. There was no good result to be obtained from this mode of proceeding, and it facilitated intrigues and attempts to influence the final action of the senators; whereas, if the proceedings were public, this result would be counteracted by public opinion, and each senator in the vote he would give would assume his own personal responsibility. For myself, (said Mr. Walker,) I have invariably voted openly. I voted upon such lights as I possessed, and with a single eye to the public service. I know, however, that as to any secrecy, in point of fact, it was out of the question. For upon leaving the senate, I have had related to me, with singular accuracy, all that had transpired in secret session. I never could account for this otherwise than by supposing that, from the position of the room, the debates, which were carried on in a very animated manner upon some occasions, were heard by persons in the vicinity of the room, and thus the course and particular objections of senators were ascertained. I think, in a government like ours, even if secrecy could be had, it ought to be avoided. The people have a right to scrutinize the acts of their agents, and these acts ought to be open and above board. These are my opinions, and I have no hesitation in expressing them. I trust that the section of the delegate from Assumption (Mr. Taylor) will be adopted; it meets with my most cordial approval.

The yeas and nays were called for on Mr. Kenner's amendment "to insert at the discretion of the senate," (Mr. Saunders in the chair,)

Messrs. Aubert, Beatty, Benjamin, Briant, Carriere, Chambliss, Chinn, Claiborne, Eustis, Guion, Kenner, King, Labauve, Legendre, McCallop, Marigny, Mazureau, Pugh, Roman, Trist, Wadsworth, and Winchester voted in the affirmative—21 yeas; and

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Cenas, Covillion, Culbertson, Dunn, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Mayo, Porter, Prescott of Avoyelles, Preston, Prudhomme, Ratliff, Read, St. Amand, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt and Wikoff voted in the negative—33 nays; consequently said motion was lost.

Mr. Taylor of Assumption moved for

the adoption of the substitute, and the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Carriere, Chambliss, Covillion, Culbertson, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Ledoux, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of St. Landry, Taylor of Assumption, Trist and Wederstrandt voted in the affirmative—40 yeas; and

Messrs. Aubert, Benjamin, Briant, Burton, Cenas, Chinn, Claiborne, Conrad of Jefferson, Eustis, King, Labauve, Legendre, Marigny, Mazureau, Wadsworth, Waddill, Wikoff and Winchester voted in the negative—18 nays; consequently said motion was carried, and the substitute was adopted.

On motion of Mr. Benjamin, the above substitute was referred to the committee of revision to be classed in the legislative article.

Mr. Claiborne said that he had yesterday offered a section embracing one of the features of the section offered by his colleague (Mr. Soulé) and had withdrawn it, when the motion was made by the delegate from Ascension, (Mr. Kenner) to lay the original section upon the table. He would beg leave to introduce it under a somewhat modified form, and one which he hoped would be acceptable to the house. So far from yielding the principle, he had been more and more convinced that the judicial power ought to be made as independent of the executive power as possible.

Mr. Claiborne submitted the following additional section, viz:

On the expiration of the term of any judicial officer, whenever the governor shall not have nominated to the senate for the succeeding term, the incumbent in office, any senator may nominate said incumbent, and in such case the senate shall have power to select between the incumbent in office and the person nominated by the governor, or to reject both.

Mr. Beatty expressed himself in favor of this proposition. He thought it possessed all the advantages of the section offered by the delegate from New Orleans, (Mr. Soulé) and was infinitely more simple and practicable. He hoped it would be adopted.

Mr. Eustis said: I think that the Convention should well consider the question in all its bearings. It would be well that the claims and qualifications of the actual incumbent should be taken into consideration in making the apportionment, but at the same time it would be awkward to constrain the governor to send in the name of a person whose appointment he did not approve. I do not know of any other way of avoiding that difficulty than by adopting a substitute to the section, which I have prepared, and to which I would invite the attention of the Convention.

Mr. Eustis submitted as a substitute for the above the following, viz:

"On nominations for judicial officers, after the first appointments under this constitution, if a majority of the members elected to the senate shall advise the re-appointment of the incumbent, he shall be re-appointed."

Mr. Claiborne said that he was solicitous as to the principle, but indifferent as to the words in which it may be couched. He thought his section nevertheless the best, inasmuch as it placed the incumbent and the person appointed by the governor immediately before the senate for their action.

Mr. Porter said that the practical operation of this mode of proceeding would be to give the senate the power of electing the judges, The result would be a regular system of electioneering and log-rolling in and out of the senate.

Mr. Taylor of Assumption, said that at first he was inclined to view the proposition with favor, but subsequent reflection had convinced him that it was of doubtful propriety and expediency. He would therefore move to lay it indefinitely on the table.

The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Humble, Hynson, Kenner, Ledoux, Legendre, McCallop, McRae, O'Bryan, Porter, Prescott of Avoyelles, Preston, Prudhomme, Ratliff, Read, Sellers, Splane, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Aubert, Beatty, Bourg, Benjamin, Briant, Brumfield, Burton, Cenas, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Labauve, Lewis, Marigny, Mayo, Prescott of St. Landry, Pugh, Roman, St. Amand, Scott of Feliciana, Taylor of St. Landry, Wikoff and Winchester voted in the negative—29 nays; consequently said motion was lost.

Mr. KENNER moved to insert the words "house of representatives" after the word "senate," so that the clause would read "and the senate and house of representatives shall make their selection from the three persons thus named and presented." Mr. Kenner stated, that in presenting his amendment, to include the house of representatives with the senate, he did so, not that he is in favor of electing the judiciary by the legislature, but that he would prefer to have them elected by joint ballot, than by one branch alone. If the amendment is passed he will vote against the entire section.

Mr. CONRAD of Orleans said he hoped the gentleman did not intend to insist on this amendment. It was not designed to take the appointing power out of the hands of the executive. This was only an exception to the general rule. It was an exceptional case, and it appeared to him to be called for by sound considerations o public policy. In ordinary cases the appointments would go under the general rule, but when there was a judge in office who had given general satisfaction, it would be in the power of the senate, in the exercise of a proper discretion to retain him. The executive, from personal pique or political motives, might supersede an excellent judicial officer, unless some power were lodged in the senate in acting upon the governor's nomination, to retain the incumbent, if it were for the public interest to do so. It was essential too to insure stability to the judiciary, to retain such judges on the bench as were competent and efficient.

Mr. RATLIFF said that he disliked to obtrude any thing he had to say upon the house, but he thought the proposition, if adopted, would be attended with unfortunate results. It would connect the judiciary and the senate into so many intrigues. The future judges would endeavor to appoint the senators, and the senators would appoint them. He did not approve of giving the executive the appointing powe with one hand and then depriving him o it with the other. It was best to leave things as they were, in the mode of appointment, if the people were to be deprived of electing their judges, which, in his opinion was the best system, and liable to the least objections.

Mr. CLAIBORNE called for the adoption of the substitute. He was willing to take the substitute in place of the original section, if such was the sense of the house.

Mr. BEATTY moved for the previous question, which motion prevailed.

The yeas and nays being called for on the adoption of the amendment of Mr. Kenner, to insert the words "and house of representatives," (Mr. Saunders in the chair,)

Messrs. Brazeale, Brent, Chambliss, Carriere, Humble, Kenner, McCallop, McRae, Mayo, Porter, Prudhomme, Ratliff, Read, Taylor of Assumption, Trist and Waddill voted in the affirmative—16 yeas; and

Messrs. Aubert, Beatty, Bourg, Benjamin, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Covillion, Dunn, Eustis, Garrett, Guion, Hudspeth, Hynson, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Pugh, Roman, St. Amand, Scott of Feliciana, Sellers, Soulé, Stephens, Taylor of St. Landry, Wadsworth, Wederstrandt, Wikoff and Winchester voted in the negative—41 nays; consequently said motion was lost.

Mr. KENNER then offered the following amendment, viz:

"It shall be competent for a majority of the members elected to the senate to reelect the incumbent;" and stated that this being the positive meaning of the section, though couched in different language, he wished it to be expressed in such language as that it might be known what would be the effect of the section as presented. He is opposed to the section, but wishes the language to conform to the real meaning and object in view. Which amendment was rejected.

The yeas and nays being called for on the adoption of the substitute of Mr. Eustis, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Brumfield, Briant, Burton, Cénas, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Taylor of St. Landry, Wikoff and Winchester voted in the affirmative—21 yeas; and

Messrs. Bourg, Brazeale, Brent, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Humble, Hyn son, Kenner, Labauve, Ledoux, Legendre, McCallop, McRae, Mayo Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wadsworth and Wederstrandt voted in the negative—36 nays; consequently said motion was lost.

The yeas and nays being called for on the adoption of the section of Mr. Claiborne, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Bourg, Briant, Brumfield, Burton, Cénas, Claiborne, Conrad of Orleans, Dunn, Garrett, Guion, Hudspeth, King, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Scott of Feliciana, Taylor of St. Landry, Wadsworth and Winchester voted in the affirmative—24 yeas; and

Messrs. Brazeale, Brent, Chambliss, Carriere, Chinn, Covillion, Humble, Hynson, Kenner, Labauve, Ledoux, Legendre, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wederstrandt and Wikoff voted in the negative—32 nays; consequently the motion was lost.

On motion section twentieth was taken up, viz:

Sec. 20. The said district courts shall have general original jurisdiction in all civil cases when the amount in dispute exceeds fifty dollars. In all criminal cases, and in all matters connected with successions their jurisdiction shall be unlimited.

Mr. Benjamin moved to amend said section by inserting after the word "dollars" in the third line, the words "exclusive of interest;" and the same was adopted.

Mr. Ratliff suggested that it would be well to ascertain whether this jurisdiction of the district courts comprehended a jurisdiction of the offences committed by slaves, and whether it was exclusive of other jurisdiction.

Mr. Chinn proposed an amendment, but subsequently withdrew it, upon the assurance of Messrs. Benjamin, Miles Taylor, and Eustis that it was unnecessary, and that it was competent for the legislature to confer all necessary authority upon justices of the peace; and that moreover the proceedings against slaves were no part of our criminal law, but of our police regulations.

Section twentieth was then adopted.

The twenty-first section was taken up, viz:

Sec. 21. The legislature shall have power to vest in clerks of courts authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus granted shall be specified and determined.

Mr. Ratliff moved to amend said section by striking out in the third line, the words "and do such acts."

Mr. Ratliff said that he apprehended under this clause it was intended to revive tha chameleon character, the parish judge, under a new name. If the gentlemen were really serious in wishing to deprive the clerks of the courts, of the manifold duties of auctioneers, notaries public, registers of mortgages, conveyances, &c. &c. about which they disclaimed so much, they would concur in the amendment he had proposed. If they acted otherwise, it was because they wished to secure the mantle of Elijah, now that the office of parish judge was to be abolished. The words "and do such acts as may be deemed necessary for the furtherance of the administration of justice," meant a great deal. It meant almost every thing. They were not confined to ministerial duties, but were invested with judicial functions at the mere will of the legislature. If he were right, and the words inserted were sufficient to authorize an unlimited construction, they ought to be stricken out. He could not conceive what possible benefit could result in abolishing the office of parish judge, and then creating clerks of courts with the very same functions. The gentlemen have said a great deal about the impropriety of entrusting so many duties to a single person. If they

are sincere in their denunciation of the parisn judge system on that account, they will not revive that system through clerks of the courts.

Mr. Benjamin said that the gentleman misapprehended the objections that had been urged against the parish court system. It was true that objection was made to accumulating ministerial functions in the hands of the judge. But so far as these ministerial functions were attributed to an officer, who was not a judge, he had never understood that it was intended to deprive such officer of such other duties as the public convenience might demand. It might be found necessary to invest that officer with the duty of issuing writs of arrest, writs of sequestration, and to perform such conservatory acts as were not purely judicial. It will be found convenient to have the several offices connected with the administration of justice kept in the same place, and where the extent of the duties permit it, the same individual may be the clerk of the court and keep the records of conveyances and the records of mortgages. Where it may be necessary, these different duties will necesserily be confided to separate and distinct officers; but still there should be but one place for the transaction of all such business. It must be borne in mind that these officers are supported out of the substance of the people, and the public interest requre that there should be as few of them as are essential to an efficient administration. In assigning these duties to the hands of one man, there is nothing which is incongruous or inconsistent. But it is a most shocking incongruity in our system, that a judge should descend from the bench to hold a family meeting, and then reascend the bench in order to homologate the proceedings. That he should make a will and then decide whether it was defective in form. There was in this something revolting to common sense. There is nothing that is objectionable in attributing various duties of an initiatory character to the clerks of courts, and in sparsely settled districts, all the necessary functions not necessarily attached to the judicial office may be discharged by one person. It will be an economy as well as a matter of great convenience. This was the reason why the committee reported the section in its present form. The object is one which I heartily approve. It was not that I conceived that the parish judge had too much to do, but it was because I believed the duties assigned to him were incongruous, and that he was called upon in one capacity to decide upon the very matters which he had performed in another.

Mr. M. Taylor had a few remarks to make in reply to the delegate who had just resumed his seat. It would be remembered that when the first section was under discussion, he (Mr. Taylor) had contended against the adoption of the section on the ground that it would not remedy the evil which it was designed to correct. The delegate from New Orleans (Mr. Benjamin) now tells us that it was not because too many offices were accumulated in the hands of the parish judge that he opposed the system, but it was because he deemed those duties to be incongruous; and yet the gentleman is willing to attribute judicial functions to the clerks of the courts. This is the system that has been lauded so much. The object, I conceive has not been attained. It is true that the parish judge system is abolished; but what shall we have in place of it? Nothing more than a mere transfer of the functions of the officer called parish judge to the officer called clerk of a court. A reference to the first section and to subsequent sections will show that the delegate from West Feliciana (Mr. Ratliff) and myself were correct in the position we assumed. The first section of the report of the judiciary committee which has been adopted, provides that the judicial power shall be vested in a supreme court, in district courts, and in justices of the peace. The eleventh section prescribes that no other functions shall be attributed to the judge but such as are purely judicial. The section under consideration makes an exception in favor of clerks. It gives to the legislature the power to make parish judges out of the clerks of courts. It reads as follows:

The legislature shall have power to vest in clerks authority to grant "such orders," &c.

Now are there any orders that are not judicial? But the next clause goes still further. *They are "to do such acts as may be deemed necessary for the furtherance of the administration of justice."* Does not

this remove every limitation? They are not only to grant orders, and orders of all descriptions, but they are to do such acts as may be deemed necessary for the furtherance of justice! Language could scarcely be made use of that would more effectually authorise the legislature to establish parish judges under another name. There is but a changing of names. The section confers upon the legislature full authority; there are no words of prohibition, and in my view, if it be adopted, it will defeat the object that has been aimed at; and I hazard the prediction that clerks of courts under it will be authorised to exercise all the powers, and discharge all the functions of parish judges, with the exception of that of deciding contested cases, which all think they ought to be deprived of.

Mr. Eustis said that if the Convention desired to undo their work and revive the system, which it was presumed they had consigned to oblivion, all they would have to do would be to reject the present section. If they wished to restore this nine-office power; this power of holding nine offices in the person of one man, called a judge, let them so determine it. As for those powers not judicial, they ought to be attributed to ministerial officers. Three-fourths of the duties now performed by the parish judges were ministerial: such as the affixing of seals, taking of inventories, &c. &c. All the duties that did not require the *fiat* of the judge were properly within the competency of ministerial officers, and should be assigned to them. If the gentleman from West Feliciana (Mr. Ratliff) would look at the last clause of the section, he would observe that every guaranty was provided in the discretion placed in the legislature. As to attempting to define what were judicial functions, and what were ministerial functions, it was taking up unnecessarily the time of the Convention. He hoped the section would be adopted. It had been prepared with a great deal of care, and was well designed to obviate the defects of the former system.

Mr. Ratliff said that notwithstanding the efforts made to conceal the practical operation of the system, it is nevertheless evident that clerks of courts will be invested with judicial functions. And when we ask why are not ministerial officers limited to functions purely ministerial, inasmuch as judges are limited to functions purely judicial, we are told that the system has been prepared by accomplished and eminent members of the bar, and we must conclude that it is faultless, and admirably designed to meet the public wants and public wishes. This is a peculiar mode of getting rid of objections. I may admit, as I readily do, the talents of the gentlemen composing the committee on the judiciary and their distinguished capacities for the duties assigned them; but they are liable to err, and with the best intentions, they may be deceived and led astray by theories, as well as men of humbler pretensions. I maintain that this section invests the ministerial officers of the courts with judicial powers, at the discretion of the legislature. It is perfectly competent for the legislature to prescribe to them judicial duties under that section, and that it will be done I have no the remotest doubt. A great deal has been said about the multiplicity of offices confided to the parish judges; that was doubtless a matter of serious objection; but have you got rid of that feature in your judicial system? It is true you have abolished the parish court system—the multiplicity of offices is destroyed in reference to parish judges; but have you not created another *factotum*; another officer with a plurality of functions? The material difference will be but slight as far as the principle is involved; for the clerks of courts will be invested with judicial functions, whereas parish judges were invested with ministerial functions. Gentlemen are deceived if they think the name makes the difference in the thing itself.

The same objections exist against investing the clerks of courts with distinct and different functions, that existed against a similar investure in the parish judges, and the objections are perhaps still more valid. But this is not all. There will be an almost utter impossibility for clerks to perform these duties. In some instances they may have to ride fifty miles to affix the seals, and fifty miles again to renew them, and to take the inventory. It may work well enough in the city; but how will it work in the country? It will be attended with a great deal of inconvenience and trouble, and however well gen-

tlemen may find their theory to be, in the practice of their system they will be wofully mistaken.

Mr. KENNER called for the previous question; which was ordered.

Mr. RATLIFF moved to strike out the words "and perform such other duties," and called for the yeas and nays, (Mr. Saunders in the chair.)

Messrs. Carriere, Covillion, Porter, Ratliff, Scott of Feliciana and Taylor of Assumption voted in the affirmative—6 yeas; and

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cenas, Chambliss, Chinn, Conrad of Orleans, Eustis, Garrett, Guion, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roman, Roselius, St. Amand, Sellers, Splane, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—45 nays; consequently said motion was lost.

On motion said section was adopted.

Mr. GARRETT submitted the following additional section, viz:

The clerks of the district courts shall be leected by the qualified electors in each parish, for the term of four years.

Mr. MAYO offered the following substitute, viz:

There shall be elected in each parish of the State, by the qualified electors thereof, at the time of the general election for members of the general assembly, a sheriff, coroner, surveyor and clerk of the district court, and a competent number of notaries public, justices of the peace, and constables, who shall hold their offices for the term of two years, and until their successors are qualified.

On motion the additional section and substitute were laid on the table, subject to call.

Section twenty-second was taken up, viz:

SEC. 22. The clerks of the several courts shall be removeable for breach of good behavior, by the judges thereof, subject in all cases to an appeal to the supreme court.

On motion said section was laid on the table subject to call.

Section twenty-third was taken up, viz:

SEC. 23. The jurisdiction of the justices of the peace shall never exceed, in civil cases the sum of fifty dollars. They shall be elected by the qualified voters of each parish for the term of —— years.

Mr. GARRETT moved to fill up the blank in said section with the word "two;" which motion prevailed.

Mr. BRENT moved to amend said section by striking out in the second line the word "fifty," and insert the words "one hundred." The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Claiborne, Conrad of Orleans, Covillion, Humble, Hynson, Labauve, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Roman, Roselius, St. Amand, Splane, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Aubert, Cenas, Dunn, Eustis, Garrett, Guion, Kenner, King, Legendre, Lewis, Mazureau, Pugh, Scott of Feliciana, Sellers, Stephens, Taylor of St. Landry, Trist, Wikoff and Winchester voted in the negative—19 nays; consequently said motion was carried.

On motion of Mr. LABAUVE, said section was amended by inserting after the word "dollars," in the third line, the words "exclusive of interest."

Mr. RATLIFF moved to amend, by inserting in the third line, after the words "exclusive of interest," the following amendment, viz:

"Subject to an appeal to the district court, in all cases wherein the matter in dispute exceeds twenty-five dollars;" which amendment was adopted.

Mr. SPLANE moved to amend by striking out the words "they shall be elected by the qualified voters of each parish." The yeas and nays being called for, (Mr. Saunders in the chair.)

Messrs. Bryant, Cenas, Claiborne, Conrad of Orleans, Eustis, Labauve, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Splane, Taylor of St. Landry, and Winchester voted in the affirmative—15 yeas; and

Messrs. Aubert, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss,

Covillion, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Waddill, Wederstrandt and Wikoff voted in the negative —37 nays; consequently said motion was lost.

On motion the section as amended was adopted, viz:

Sec. 23. The jurisdiction of justices of the peace shall never exceed, in civil cases the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court in all cases wherein the matter in dispute exceeds twenty-five dollars. They shall be elected by the qualified voters of each parish for the term of two years.

Section twenty-fourth was taken up, viz:

Sec. 24. The judges of the supreme court and district courts, provided for in this constitution, shall be appointed and commissioned as soon as possible after this constitution shall go into effect; and the legislature shall provide for the removal of all causes now pending in the supreme and other courts of the State under the present constitution, to the supreme and district courts created by this constitution, and to the other courts that may be created by the legislature for the city of New Orleans.

Mr. Garrett moved to amend by striking out the words "and to the other courts that may be created by the legislature for the city of New Orleans;" which motion prevailed.

On motion the section as amended was adopted, viz:

Sec. 24. The judges of the supreme court and district courts, provided for in this constitution shall be appointed and commissioned as soon as possible after this constitution shall go into effect; and the legislature shall provide for the removal of all causes now pending in the supreme or other courts of the State under the present constitution, to the supreme and district courts created by this constitution.

On motion, the second section was taken up, viz:

Sec. 2. The supreme court shall have appellate jurisdiction only, except in cases hereinafter provided, which jurisdiction shall extend to all cases where the matter in dispute shall exceed five hundred dollars.

Mr. Lewis moved to amend said section by inserting in the second line after the word "jurisdiction" the words "on questions of law."

Mr. Lewis intimating the desire of addressing the house on this amendment, on his motion the Convention adjourned.

Remarks of Mr. Read, upon the adoption of the first section of the report of the committee upon the judiciary.

Mr. Read said: Having been cut off by the previous question from the opportunity of submitting the remarks he had designed making, he would beg the indulgence of the Convention while he explained his opinions. By his vote upon this question, he thought he would not only give utterance to the sentiments of his immediate constituents, but of nine-tenths of the people of Louisiana. He was determined to pursue a course that would most effectually destroy the parish judge system as at present organized, and which would give full jurisdiction to district courts in all matters of probate. He was opposed to any system which made the judge first, last and best heir to every estate in the country, and thought such an one could be supported by but few, save the universal heirs themselves. Thousands of widows and orphans have suffered from the miserable system which has cursed the country for years, while certain life-time dignitaries have revelled in luxury and ill-begotten wealth. Justice calls loudly for our interference in this matter, and there seems to be but one remedy, viz: the total annihilation of these worse than Spanish inquisitions, and the complete transfer of all probate business to the district courts.

Let us then confer probate jurisdiction upon district courts, where successions can be settled in temples of justice, and not in sinks of iniquity; settled upon principles of benevolence and humanity, and not upon principles of plunder; settled by right and religion, and not by the depraved cravings of a callous heart. He said that he desired each and every parish judge in the State to be enabled to exclaim, "farewell! a long farewell to all my greatness."

SATURDAY, April 26, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer.

Mr. HUMBLE stated that yesterday the house adopted a clause allowing an appeal from decisions of justices of the peace, when the amount involved was of twenty-five dollars. He stated that at present, appeals were granted when the amount was of ten dollars. He thought the matter ought to be left to the discretion of the legislature. Even as it was, great hardship was experienced; he thought appeals should be for a smaller amount than twenty-five dollars; and would state further, that in some cases the appointments of justices of the peace, in some sections of the State, were not made from the first class of citizens.

Mr. RATLIFF thought this a small matter, and it would be, perhaps, better to leave the clause as it was. He was averse to encouraging litigation. He hoped the motion to reconsider would not prevail.

The question was taken upon the motion to reconsider.

Mr. LEWIS inquired whether as many voted in favor of the re-consideration as voted in favor of the original proposition. He had voted in favor of the re-consideration, but he wished the rules to be observed.

The secretary stated that the yeas and nays were not called for yesterday.

Mr. MAYO observed that the chair had decided that when the yeas and nays were not called for, the presumption was that the re-consideration was carried, if a simple majority voted for the re-consideration.

The CHAIR (Mr. M. Taylor) stated that it had so decided the question.

Mr. LEWIS moved to leave the section as it originally stood.

Mr. GARRETT said that the argument of the delegate from West Feliciana (Mr. Ratliff) had convinced him that it was expedient to insert the clause in the constitution, and before taking the question he would beg the Convention to take into consideration the remarks of that delegate.

Mr. PRESTON had a proposition to make which he thought would be satisfactory, and would move that the tenth section of the minority report be substituted, as follows:

SEC. 10. A suitable number of magistrates shall be chosen in every parish, by the qualified electors thereof, for the term of two years, who shall have jurisdiction of all cases when the amount in controversy, or penalty to be inflicted, does not exceed one hundred dollars, subject to appeal, to be determined by law, and shall perform such other duties as may be provided by law.

Mr. GARRETT moved that the substitute be laid on the table indefintely; the yeas and nays being called for, (Mr. Taylor of Assumption in the chair,)

Messrs. Aubert, Bourg, Brazeale, Brumfield, Chambliss, Claiborne, Conrad of Orleans, Dunn, Eustis, Garrett, Guion, Hynson, King, Lewis, Marigny, Mazureau, Peets, Prescott of Avoyelles, Prudhomme, Pugh, Roman, Sellers, Stephens, Taylor of St. Landry, Wederstrandt and Wikoff voted in the affirmative—26 yeas; and

Messrs. Brent, Briant, Burton, Carriere, Covillion, Humble, McCallop, McRae, Mayo, Porter, Preston, Ratliff, Saunders, Scott of Feliciana and Taylor of Assumption voted in the negative—15 nays; consequently said motion was carried.

Mr. LEWIS moved to amend said section by striking out the words "in all cases wherein the matter in dispute shall exceed twenty-five dollars," and insert in lieu thereof the following words, "in such cases as shall be provided for by law;" which amendment was adopted.

Mr. LEWIS moved to amend said section by adding at the end of the same the following amendment, viz: "And shall have such criminal jurisdiction as shall be provided for by law;" which amendment was adopted.

On motion, the section as amended, was adopted, viz:

SEC. 23. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court, in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

Mr. CLAIBORNE gave notice that he would on a future day move to reconsider the vote adopting after reconsideration, the amendment to the seventh section, because

he believed the reconsideration to be out of order.

(Mr. Taylor of Assumption in the chair.) The question of order raised is a very important one, and the chair thinks it proper to express its opinion on it, although it is not now necessary to decide it formally.

The chair does not concur in the opinion expressed by the delegate from New Orleans, that the rules were made for the protection of absent members, and that they cannot be dispensed with without previous notice.

Rules are made for the government of the house, and that is composed of the members present forming a quorum.

In the opinion of the chair it does not admit of a doubt, that four-fifths of the members present can at any time and without any previous notice, suspend any rule; and that the proceedings had in pursuance of such suspension of a rule, are in all respects regular, and that they cannot at any future time be called in question on that ground. Any thing done with the unanimous assent of the house, as in the instance referred to, necessarily involves a suspension of the rules, and the chair would in consequence decide that there had been in that instance no violation of the rules adopted for its government.

Mr. Sellers gave notice that he would, on Thursday next, move to reconsider the vote adopting the eighth section of the legislative article.

ORDER OF THE DAY.

Section second of the majority report.

Sec. 2. The supreme court shall have appellate jurisdiction only, except in cases hereinafter provided, which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars.

The question under consideration at the adjournment, was the motion of Mr. Lewis to amend said section by inserting after the word "jurisdiction," in the second line, the words "on questions of law."

Mr. Lewis said, the change which I propose in the jurisdiction of the supreme court, is one which all will admit to be of considerable importance. Both systems—the one which I proposed to confine the appeals to questions of law alone, and the system to embrace both the law and the facts, which has heretofore prevailed in the State—have been tried. Complaints have been made that appeals are now allowed on matters of fact as well as of law, and our experience of this system has not given as much satisfaction as is desirable. In other States, where appeals have been confined to questions of law alone, the result has proved the wisdom of that provision. I know that the exercise, in this State, of the power to review the facts in the supreme court, has given rise to much dissatisfaction. I do not wish to be understood as casting the slightest censure upon the judges of that court. It would be as unnecessary as uncalled for. But I believe that it is physically and morally impossible for them to give that attention to every case which is essential to a proper decision, if they are under the necessity of reviewing the facts as well as the law. It is out of the question for them to do so with the mass of business annually carried before them. By our system the finding of a jury upon the facts, is subjected to the revision of the appellate court, and therefore all the testimony must be taken down in writing, to be sent up with the papers in the case. To become properly acquainted with the testimony, it is necessary that the judges should examine it with great attention; they should weigh every word; they should study it, to have it imprinted upon their memory, so that when they come to a decision, it should be as strong upon their minds as as it was upon the mind of the judge or of the jury, who listened to it from the lips of the witnesses that were introduced before them.

Every one who has the least experience in the practice of our courts, know how difficult it is to reduce to writing, correctly, testimony as it falls from the mouth of a witness; and from this fact I draw an argument to show the great difficulty, nay, the impracticability of a proper exercise of this jurisdiction by the appellate courts. As far as my experience goes, that tribunal is more liable to err in determing upon the facts than the courts of original jurisdiction, and is more liable to misconceive the weight of testimony than the judge or the jury before whom the testimony is taken. It is my deliberate conviction that the appellate court has more frequently erred in this matter, than the judge or the jury before whom the case was originally tried. To place the difficulties attending the

exercise of this power, to review the facts, in their proper light, let us take a glance at the practice in the district courts and in the supreme court in the decision of cases. The witnesses are brought before the court of the first instance, examined, and their testimony is delivered before the court and jury. The weight of this testimony is affected by the manner in which it is delivered, and by circumstances occuring in the course of the trial, which cannot be transferred to the written evidence. A great deal, too, depends upon the credibility attached to the testimony of witnesses; and although you might not find any one to swear to a disbelief in the testimony of one witness, or that one witness was entitled to greater belief, if such were permitted, than another; yet every one knows that the testimony of A, from his standing in the community, may be worth, before a jury, a great deal more than the testimony of B. There are a variety of circumstances which give greater weight to the testimony of one man than to that of another; and to appreciate and comprehend the various shades of difference in the testimony of witnesses, it is necessary to hear the testimony from their own lips—to watch their gestures and their countenances. These indications of credibility or incredibility are denied to the court of appeal. The testimony of A is taken down as well as the testimony of B, and goes before them, and may have equal weight with them; and yet, had A and B been examined before them, they would have attached greater weight to the testimony of one of these witnesses than to the other.

I remember, said Mr. Lewis, in my professional experience, a case which occurred in the parish of Avoyelles, that illustrates the fact to which I have just referred. Six witnesses were examined—three of whom testified one way, and three the reverse. Here was an equal division of testimony, and it happened on one side there were two men of the highest respectability, and that nothing could be shown in favor of or against the three witnesses on the other side. No testimony can be adduced to show that A is a respectable man and worthy of belief, and that B is comparatively a disreputable man, and unworthy of the same belief; and consequently if it could have been shown in this particular case, it would not have been permitted. It looked like a case where a just decision upon the evidence was impossible, and it would have been impossible to have come to a satisfactory decision had it not been that two of the witnesses that testified on one side were well known to the court and jury, and were well known to be incapable of prevarication. Now, suppose such a case to arise before the supreme court on the written evidence sent before that court. How would they have decided it? They would have been as likely to have inclined to the opposite side, and have given their decision accordingly. At any rate they would have acted upon the principle of a preponderance of testimony, and had four witnesses testified one way, and two the other, they would in all probability have decided in favor of the testimony of the four, the parties testifying being unknown to them; and yet, had the witnesses been examined before them, they might have become convinced that the testimony of the two witnesses was sufficient to outbalance the testimony of the four. I know, continued Mr. L., of several instances where judgments have been reversed, on the ground of the preponderance of testimony. A jury might base their verdict on the testimony of a particular witness, who was known to them by his probity, and discredit the testimony of some seven or eight witnesses, whom they knew or believed to be unworthy of credence. And yet the supreme court, on the ground of the preponderance of testimony, would reverse the verdict. I recollect another case, which illustrates still more strikingly the impossibility for the supreme court to arrive at a correct solution of the facts in many instances. The record of an appeal, pending in the supreme court of Alexandria, containing some three hundred closely written pages, was put into my hands, as counsel for the plaintiffs. Having but one other case in that court, and which was set for argument two or three weeks ahead, I could, and did, give the case my undivided attention, and was closely occupied during a whole week in reading the testimony, before I could ascertain the facts of the case with sufficient precision to understand them and to make an argument upon them. If it took me one week, with no other

business, to be able to make an argument only, how long, in the ordinary nature of things, would it have taken tthe judges to become indoctrinated into the character of the testimony, to come to a decision upon the facts involved, after hearing the conflicting contradictions of the counsel? There was not one question of law involved in the case. It was one of pure facts, at least the law was so well settled that its application to the facts was a matter of no dispute. The difference between the parties, and which induced the appeal, was confined to the doubt as to what had been proved. There was a good deal of conflicting testimony upon the facts in controversy, and it became indispensable that the whole body of the evidence should be familiar to the judges, who were to determine in the last resort. To understand the arguments of the counsel, it would have been indispensable for the judges to have read it over several times, to have reflected upon it, and to have studied it. Upon any possible hypothesis they could not have accomplished this labor under one week. Now, if we assume that there is one case in ten of this voluminous description, how is it possible that the court in one month can run through three hundred cases, examine all the records, and patiently and carefully thread their way through all the mazes of a closely contested suit, where the evidence is voluminous and conflicting, and where the facts to be resolved depends upon close and nice discriminations! No, sir, it is not possible for them to examine the facts critically, as they are examined before the court of the first instance, and they have not the benefit of the presence of the witnesses, and of resolving the testimony as it transpires. And what is the consequence? That they have to rely, two-thirds of the time, upon what is called "a statement of facts," frequently an imperfect, I shall not call it a garbled, statement of the testimony; necessarily imperfect from the fact that it is made out in a hurry, and is but an abridgment, a sketch of the testimony. The uncertainty in which the judges often find themselves, induce them to remand cases for new trials, which, if they could possibly get through the testimoney, they would determine. Here is the ground work of the uncertainty that marks our decisions, and, if I may be permitted to say it, the confusion which prevails in them.

But it is said out of doors, and may be repeated here, that it is impossible to get intelligent juries to determine the facts. I am not one of those who think there is so great a want of intelligence amongst the people of the State. Moreover no extraordinary intelligence is necessary. Does it require an extraordinary education or abilities to determine upon the mere facts involved in a controversy between neighbors? It requires good common sense and honesty of purpose. Few upon this floor will be willing to deny the possession of these to the mass of their constituents. An experience of twenty years has convinced me that this difficulty is but imaginary. But admitting as some persons are disposed to presume, that in the section of country which I represent, this obstacle actually exists—I admit no such proposition in point of fact, but for the sake of the argument—yet, even there, I can safely assert, from my own knowledge, that in nineteen cases out of twenty, the verdicts of juries are correct. In criminal cases it may well be that the judgments of juries are often warped by prejudice or feeling. I believe that this latterly has been a theme of just complaint; but in civil matters, as the law is expounded from the bench, their decisions are as correct in the main, as the decisions of the courts. I admit that there are occasional blunders, but new trials have been found amply sufficient to insure justice in those few instances. In the fifth judicial district I have known but a single case in twenty years, where juries have refused to do justice. This case is familiar to members of the bar. The wrong done in that case was flagitious. There was not a particle of evidence to authorize the verdict, and the supreme court very properly afforded relief. But why should not the district judge be as capable of determining upon matters of fact as the judges of the supreme court? He has a decided advantage in having the witnesses examined before him, and of watching the testimony from its inception to its termination. I suppose that a preference is given to the decision of the supreme court upon the principle "that there is safety in a multitude of councillors." In most cases the ordinary intelligence of ju-

ries, and the promptings of their sense of right and wrong, are all that is necessary to secure a just decision. If errors have occasionally been committed by juries, there are on the other hand striking examples of their independence and impartiality. One case presents itself to my mind, where a jury recently rendered a verdict sending in heavy damages to the full extent of the sum claimed, in favor of a captain of a steam boat, a perfect stranger, and against a number of influential citizens of the parish. It is my decided conviction that the country is sufficiently enlightened to make juries a valuable auxiliary in the administration of justice, and with the power of granting new trials in the courts below, I think the facts might safely be committed to them and to the judges of the first instance. As to the questions of law, they ought to be definitely settled by the superior tribunal, and they would be better settled if the attention of that court were exclusively called to them, without the necessity of entering into the tedious and prolix investigation of the facts *de novo*. It would be a great relief to the court to take away this mass of business; and if we consider the augmentation of the duties of the appellate court, it is apparent that this ought to be done in order to enable it to progress promptly and efficiently. Otherwise its proceedings will be remarkable for tediousness and procrastination. Its duties will, by the new constitution, be increased at least one-third. Appeals will be taken for no other purpose than to obtain indefinite postponement, and the party interested in the confirmation of a judgment will sicken and die with "hope deferred." It is true that there may be means to accelerate the action of the court, but if you overcharge it with business, and then compel it to get through with that business, justice must suffer; and the reputation of the court must suffer. The only object will be dispatch, and every thing else will be sacrificed to that consideration.

These are briefly my views in favor of the motion I have made, and unless I am convinced that I am wrong, I shall insist upon it. I think that the result will be greater uniformity in our decisions, upon questions of law, and that the ends of justice will be greatly facilitated by confining the supreme court to those questions exclusively. This is not an untried experiment. It has been tested elsewhere, and it has proved eminently successful, and I can see no reason why it may not be adapted to our system of jurisprudence with advantage.

Wherenpon, on motion, the Convention adjourned.

MONDAY, April 28, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

On motion, Messrs. Soulé, Sellers, Prescott of Avoyelles and Taylor of Assumption were excused for non-attendance on account of illness.

ORDER OF THE DAY.

Section second of the majority report on the judiciary.

The question pending was on the motion of Mr. Lewis, to amend the section as follows:

"The legislature may limit the jurisdiction of the supreme court to questions of law only, in such cases as shall be determined by law."

Mr. MAYO said: Mr. President, when the Convention adjourned on Saturday, it was understood that the delegate from New Orleans (Judge Eustis) would address the Convention to-day, in reply to the delegate from St. Landry (Mr. Lewis) upon the subject which is now the order of the day, on which I am anxious to hear his views; but, as he is not now in his seat, I will avail myself of the opportunity of making some remarks upon it. I have, Mr. President, been much perplexed with this question, and acknowledge frankly that until the discussion upon it arose on Saturday last, I had not given it much attention. It is a subject I am satisfied which is not well understood, even by many of the members of the bar. I do not profess to understand it fully. The means to enable me to do so have not been within my reach since the subject was taken up, nor have I had time to examine authorities, if I had been in possession of them. It would require a good deal of careful research and investigation to understand the subject fully, and to be enabled to determine in a manner

satisfactory to himself how the system of a court of appeals for the trial of errors of law only, has worked in other States under their various systems of jurisprudence, or what would be its operation and effect when applied to our peculiar jurisprudence, which is entirely different from that of any other State. Since the delegate from St. Landry addressed the Convention on Saturday last, I have given the subject considerable attention, with a view to forming a correct opinion, and have determined to oppose it for the reasons that it would be a dangerous innovation upon the rights of the citizen, and peculiarly dangerous to be incorporated into the constitution; where, if it be found impracticable, it will be extremely difficult to remedy the evil.

The peculiar character of our laws and of our judiciary system, as already formed by the Convention, will render the operation of a provision giving the supreme court jurisdiction of appeals on questions of law only, entirely different from the operation of a similar provision relative to appeals in other States. In most and probably all the other States of the Union, there are courts of chancery, as well as of law. In the courts of chancery, as such, no juries are allowed, but when important questions of fact are to be tried in a court of chancery, a jury is empannelled from the law side of the court to try them, and parties have in this way the advantage of the verdict of a jury to decide questions of fact in those courts, and appellate tribunals exists for the correction of errors from the courts of chancery as well as from the courts of law, which is a privilege of which this State would be deprived under the proposed plan of appeals in a very large proportion of cases, as I shall attempt to show.

The delegate presented us with the strongest and best reasons, I presume, that a careful examination of the subject enabled him to present. One of the cases to which he referred us, was one in which three witnesses on one side testified to what was totally irreconcilable with the testimony of three other witnesses on the other side. That two of the three witnesses on one side were men, in favor of whom much could be proven, That all the witnesses on the other side were men, of whom nothing could be proven. That the testimony of the three in relation to whose characters for veracity nothing could be proven, would, when spread upon paper and sent to the supreme court, have as much weight as the evidence of the other three. That in spreading the evidence upon paper much of what was actually a part of the evidence, the peculiar manner of the witnesses, the evident indications of either from their manner of testifying, to serve one of the parties at the expense of truth and of the other party, could not be made to appear in a transcript of evidence; and the influence of such indications evidenced only by their peculiar manner of testifying, could have no effect with the supreme court. The district court and jury only could appreciate it, and it was before that court only, that these circumstances could have any influence.

The case furnishes strong evidence of the misfortune of being inflicted with false witnesses, when it is impossible to prove them such. A misfortune which all would be glad to see remedied, if it could be done without producing greater evil than exists without the remedy. The evil, however, has been to a very great extent remedied already, by a long course of decisions of the supreme court, which now make part of the jurisprudence of the State, in which the court has stated as a settled rule by which they will be guided in cases where judgments are founded upon the verdict of juries, that they will not disturb the verdict unless manifest injustice has been done by it. This will generally afford a remedy for the evil produced by the inability of the parties to get the peculiar appearance of witnesses, and their apparent credibility or incredibility, before the supreme court. The jury first find a verdict from the law and evidence, as they estimate it; if by such verdict manifest injustice be done, the supreme court will reverse the judgment or remand the case for trial by another jury, but not without; and of this course, parties as a general rule, have no reason to complain.

The other case instanced by the delegate from St. Landry (Mr. Lewis) was one in which he was employed at Alexandria, in which there was a transcript of three hundred pages; the facts of which it took him a week with constant application to understand, and in which there was no single law question involved. That if it took the

court but one-sixth part of the time that it took him, it would be more time in proportion than could be given to other cases at that court, during the short time they have to remain there. This, as well as the other case instanced, was a case well calculated to illustrate the difficulties of the present system of appeals; but it only shows an evil beyond our reach, at least one which would not be reached by the proposition offered. For the delegate told us that there was not a single law question in it, and if there was not, it is very evident that no appeal could have been taken in it, under his amendment, for it provides that appeals to try errors of law only, shall be allowed. In cases in the supreme court where the record is volumnious, counsel are in the habit of preparing a brief by which the particular portions of the record containing the facts to which either party desires to call the attention of the court, is pointed out. The lawyer cannot do his duty to his client unless he does this, and if he does, the time that would otherwise be required of the court is very much abridged. So that what would require a lawyer a week to examine, could, by the aid of his brief, be examined in half a day by the court. Now, I appeal to the candor of the gentleman to say, whether parties would be likely to be satisfied if prevented from taking cases of that magnitude to the supreme court, when they supposed injustice had been done them in the first instance. I think not, Sir. If experiments of that kind are attempted, let it be done by the legislature, where, if an error be committed, it can be easily corrected.

The delegate (Mr. Lewis) told us that it took him a week to examine the record to which he called our attention. If it took him a week to learn the facts from the record, how long would it have taken a jury to have understood them from the witnesses? It would take them a month, Sir. Would the citizen be satisfied to rely finally upon the verdict of a jury under circumstances of this kind, where the jury must necessarily be fatigued and worn out, with hearing the evidence and confused by the arguments of counsel, and to risk their all upon the verdict without any power of revisal by a superior tribunal? They will not be, Sir. A jury under such circumstances, are always very liable to overlook some of the important facts, facts which they may think unimportant, but on which the case ought to turn, and if their verdict must be final for want of a law question being involved in it, there can of course be no reviewal by the supreme court. It is well known that intelligent juries, as well as judges, sometimes overlook important facts, and if there be a tribunal more likely to give general satisfaction to parties dissatisfied with the decisions of courts rendered upon verdicts, the citizen should not be debarred from the privilege of resorting to it. The delegate stated, that for argument sake merely, he would admit that juries in the parish he represented, were as ignorant as in any other part of the State, and that being so, he would much rather leave the decision of questions of fact merely, to them, than to the supreme court, to be determined by them in the hurried manner in which they have to act. I am, on the contrary, willing to admit, and which I believe to be the fact, that in the parish which I represent, the juries are as intelligent as they are in any other part of the State,—and being so, are liable to commit errors, either from omitting to consider all the circumstances detailed in evidence, or from giving undue weight to the charge of a partial judge, or a judge acting unconsciously under the influence of bias or prejudice. And I am satisfied that suitors would not be satisfied, if deprived of a right to have the facts reviewed by a tribunal composed of men well acquainted with the law, and who from their situation are in the constant habit of calm and considerate consultation, to determine and weigh the facts and make an application of the law to them. I will now, Sir, inquire more fully into the probable effect of this proposition. As we have arranged the judiciary system, giving probate jurisdiction to the district courts, I suppose it is understood that the legislature will provide for four or six sessions of the district court in each parish annually, and that there will be but two terms of the court at which juries will be called, that the two or four other terms will be held for the trial of probate and other cases, in which no juries will be required nor permitted. That at the two terms at which juries will be required,

cases in which no juries will be permitted will be tried, as well as those in which juries will be permitted.

I do not suppose that it is contemplated by any of the members of the Convention to call out the juries oftener than twice a year. To do so, would be imposing too great a burden upon the citizens, and one which they will not be likely to expect. The legislature in this respect, will probably conform to their wishes. If the system be put into operation, as I have supposed, the advantage of having facts submitted to a jury, and found by them to form the basis of law questions to be submitted to the supreme court, will be lost in all the cases to be tried at the two or four terms of court at which there will be no juries, and in a very large portion of the cases tried at the jury terms, as juries are not allowed in all cases tried in the district courts, under our present laws.

It will be recollected that by a late statute of the State, parties defendant in suits on bills, notes and drafts, are not allowed juries unless they first show by affidavit that the instrument sued on is forged, has been paid, or that it was given without consideration. It is not likely that the legislature will think proper to repeal that law, and if not parties in that class of cases cannot have the benefit of submitting questions of fact to the jury, to be determined by them. I think, sir, that the classes of cases to which I have alluded, will amount to three fourths of the whole. In that part of these, as well as in all cases in which no juries will be allowed, in which the judge may think there are no law questions, the judge, a single individual, must be relied on solely; first, to decide what the facts are, then to decide whether there are law questions involved in the case to which the facts are to be applied, and if so, to prepare the law questions and certify them to the supreme court.

Judges are like other men, afflicted like other men with the infirmities common to human nature, and like other men liable to biases, prejudices, likes and dislikes of parties to suits, and their counsel who manage them, and often act under feelings and influences of this kind, without being aware of it themselves. Men cannot be expected to be satisfied when compelled to abide the decision of a single judge under such circumstances, and such circumstances always have existed and always will exist. I hold it to be a principle of justice which all good government requires should be enforced, that men who have the misfortune to become involved in litigation, should be gratified with an opportunity of having as well the facts as the law of their cases fully reviewed before they are made final, by a tribunal in which they can reasonably be supposed to impose the greatest confidence. I hold this to be undeniable, both in principle and practice. And if it be, it appears to me equally undeniable that where the facts are to be decided upon finally by a single judge, and the questions of law to be prepared and certified by him to the supreme court, that the means of having a fair hearing, before a tribunal in which it is reasonable to suppose the citizen will have the most confidence, will be placed entirely beyond his reach.

All law questions depend entirely for their character upon the peculiar state of facts that exist in the case, and to decide what the facts are, and what the law questions, is virtually in most cases to decide the case. The single judge then, notwithstanding an appeal to the supreme court, will in all cases in which no juries will be allowed by law, have the first decision of the rights of the parties. Will not the judges be likely so to shape the law questions, if they can with any semblance of consistency, as to have their judgments sustained. Infirmities will induce this. Men have a natural pride in being sustained by their superiors. Suppose a judge to have decided a case during the term, and that before he prepares his certificate for the appeal, becomes dissatisfied with his own judgment, but not so much so as to induce him to mention the fact to the counsel of the parties, nor to grant a new trial *ex officio*. Will not his weakness, or his pride, or self-esteem incline him so to shape his law questions for the supreme court as to induce them to sustain his judgment, notwithstanding he thinks it erroneous himself? No cases can be decided by the supreme court under the proposed amendment but law cases, and no cases can be of that character purely, under the peculiar character of our jurisprudence, but such as arise under the provisions of the civil code, code of prac-

tice, or the statutes of the State. In these are to be found all the civil laws, strictly speaking, that we have. Those cases that will have to be decided by general legal principles, and not under the provisions of our statutes, or of the codse, cannot present strictly law questions, and consequently cannot be entertained by the supreme court on appeal. By a provision of the civil code, article twenty-first, it is provided as follows: "In civil matters, where there is no express law, the judge is bound to proceed and decide according to equity. To decide equitably, an appeal is to be made to natural law and reason, or received usages where positive law is silent." Those familiar with the practice of the law will readily perceive that this provides for a very large class of cases, in which the citizens seek their rights, and in which, strictly speaking, no law question can arise. If there be no express law by which a case can be decided, reference must be had to the laws of other States and countries, as found in the works of elementary writers, and in reports of decisions of the supreme courts of this and other States and countries.

These constitute a very large class of cases which are instituted with as much confidence of their being conducted and decided on general legal principles as any other class of cases. Still, under the amendment none of this class of cases can be taken to the supreme court, because in strictness of law there can be no law questions involved in them. Nearly all suits that will be instituted upon bills, notes and drafts, will be in a similar situation. We have but two or three statutory provisions relating to them, and the object of those statutes is principally to provide for the manner of giving notice of protest, and the interest and damages on protested bills; and there are also a few very general provisions in the civil code that apply to bills and notes, though not intended for that purpose, being applicable to contracts generally. In all cases of this kind the works of elementary writers on commercial law; Chitty and Baylie on bills and Benee's Lex Mercatori, and the decisions of our own and other courts are referred to, to determine what is generally understood to be, but what is not in strictness, the *law* of the cases, though these works and the decisions of the courts contain the general law marked out for all commercial cases.

Our codes and statutes being silent, any necessary reference to general principles of jurisprudence settled in other countries, or even by the decisions of the supreme court of this State, by a reference to general principles of law, and not involving questions under our codes and statutes, cannot make a question such a question of law as to bring it within the provision of the amendment, and enable the party to take an appeal. I am satisfied that the cases involving questions of law, in which the parties are not allowed juries at present, and those in which no law questions will be involved, owing to the peculiar character of our jurisprudence, will amount to nine-tenths of all that will be brought before the courts, which is a much greater number than good policy will justify us in excluding. In addition to this it must be recollected that lawyers as well as judges will have to learn the practice under the operation of the provision, and until that is well understood, cases must constantly be remanded because the questions have not been properly certified, or the appeal not properly taken. The supreme court will discover law questions where the district court saw none, and will think other questions of fact which the district court supposed were law questions; delays will be increased by sending the case back to perfect the appeal or certificate, and embarrassments will, I am afraid, be found in the working of the machinery that will make us regret the adoption of such a provision. It would be better to resort to the old mode of requiring the judge, in case the counsel of the parties could not agree, to prepare a statement of facts. It appears to me that the number of appeals are likely to be diminished under the new organization of the judiciary, from the fact that suitors will have more confidence in the district court than they have in the present probate and parish court. Whether this be so or not, I should prefer to see the docket of the supreme court choked up, than to see this untried and unknown system of appeals engrafted into the constitution. I fear we are not progressing with sufficient caution in relation to our organization of the courts. I am apprehensive that we have restricted the powers of the

judiciary within too narrow limits. The first and second sections, if condensed into one, would read thus: "all the judicial and no other powers shall be vested in a supreme court, district court and justices of the peace." Is it not doubtful whether administering an oath is a judicial act, and if it is not, can a clerk of a court administer an oath? None but the judges and justices of the peace can perform judicial acts, and the judges can perform no act that is not judicial. Is the granting an attachment, arrest, provisional seizure, or the like a judicial act. I think they are, and if they are, can the legislature ever empower the clerks to issue them? It really appears to me that they cannot. Is writing down evidence a judicial act? I think not, and if not a justice of the peace cannot do it, because he can do no acts but such as are judicial. It is said that the first section granting all judicial power to the courts is not intended to recognize justices of the peace as courts, but I think differently. First, the article names the supreme and district courts, next justices of the peace as a third court, in the three of which the judicial power shall be vested. The eleventh and twelfth sections were passed when we were tied down by the previous question, when members could not express their objections to them. I should not have alluded to them now if I had had an opportunity of doing so then, but had not. I hope the Convention will appreciate the necessity of proceeding in these provisions with great caution, and adopt nothing the operation of which cannot be clearly understood, and known to be practicable.

Mr. Eustis said, I have a few remarks to add to those made by the gentleman from Catahoula. The view that he has taken of the subject under consideration is correct. In relation to what he has said concerning other sections of the article under consideration, I will merely add that they have been so fully debated and considered by the Convention, that I do not feel myself at liberty to enter into a discussion about them, notwithstanding my great respect for every thing that falls from the gentleman, on a matter with which he has shown so thorough an acquaintance.

The amendment proposed by the learned gentleman from St. Landry is so very important in its consequeuces, and the views of the gentlemen of the bar having been somewhat discordant, in relation to its operation, I deem it necessary to put the Convention thoroughly in possession of the state of the law on the subject of the appellate jurisdiction of the supreme court, under its present organization. Let us first ascertain what the history of the appellate powers of the supreme court is, in order that we may judge whether any change be necessary. The committee propose the adoption of the words of the constitution of 1812; they are of opinion that no change ought to made in them. They have been long since settled by judicial and legislative interpretation, and when the Convention shall understand their extent and import, they will, in all probability, come to a correct conclusion as to the propriety of changing the constitution on the subject.

By the constitution, *the appellate jurisdiction* of the supreme court extended to all civil cases in which the matter in dispute exceeded three hundred dollars. It is proposed to confine this jurisdiction to questions of law; to take from the court all supervision and power over questions of fact, which are to be determined by the verdicts of juries, and judgments of the judges in the first instance. This throws before juries all questions of fact in all cases; and the first objection to this system is its utter impracticability, which will be evident, on reflection, to the most superficial observer.

Is there precedent for such a system as that proposed by the gentleman from St. Landry? Are not all precedents against it? Throughout all christendom, is there a single example of such power being given to juries?

In France there is no trial jury in civil cases. In England there is a trial by jury in *certain cases*, but by no means in *all cases*. In the courts of common law civil cases being brought in certain artificial forms of actions are tried by juries, but only these cases. The rest of the whole mass of litigation and judicial proceedings is determined without juries. All cases in equity, cases of admiralty, and maratime jurisdiction, cases of separation, and those cognizable in the ecclesiastical courts, are terminated without the intervention of a

jury. A chancellor may direct an issue to be tried by a jury; but it rests solely in his discretion. The same system prevails in the different States, and the possibility of submiting all these cases to juries has never, it is thought, been believed in.

It is only in particular cases that a trial by jury can be had in England. These are familiar to lawyers; but to enable those of the Convention who are not lawyers to judge of them, I will state a case by way of illustration. A planter sells a hundred bales of cotton, and gets a merchant's bill for it. The bill is accepted, and we will suppose is endorsed in blank. He loses his bill. The parties to the bill owe the money, and no question is made as to their liability. What now is the remedy of the holder? If he had the bill, he would have his case tried by a jury; but having lost it, matters are entirely changed. He must go into a court of chancery, and the chancellor will fix the indemnity the parties are entitled to have, before they are obliged to pay.

To place before juries, in defiance of all experience, all cases, without distinction would be an experiment which ought to make the boldest innovator hesitate.—There is a class of cases in which the power of supervision may be taken from the supreme court; but what that class is, we are by no means prepared to determine. It is a delicate matter—full of difficulty, and requiring much reflection. The constitution of 1812 left this power to the legislature; and the manner in which this power has been from time to time exercised, shows the extreme danger of adopting the innovation proposed.

The law of 1813, organizing the supreme court, provided that there should be no reversal for any error in fact, except on a special verdict, or a statement of facts agreed on by counsel, or made by the judge. No provision was made for reducing the testimony of witnesses to writing, and there could be no revision of a question of fact, except in the form here prescribed.

In 1817 another law was passed, by which the finding of juries on *certain facts* submitted to them, was conclusive, but the evidence on a general verdict could be examined in the supreme court, and provision was made for reducing the testimony to writing in the court of the first instance. By this statute the conizance of facts was taken from the supreme court, at the instance of either of the parties.

The proposition of the honorable delegate from St. Landry takes all cognizance of questions of fact from the supreme court in all cases. Now, let us see the operation of a statute, which took from that court cognizance of matters of fact, in cases provided by it. My brethren of the bar, who can here bear witness to its operation, will, I am sure, unite with me in assuring the Convention that it answered in no one particular the object it was intended to effect. It often produced the greatest confusion, and some times the most flagrant injustice. Neither the bar, nor the bench, nor the public, were prepared for it. With well trained and skillful practitioners on each side of a case, and an able judge on the bench, a system like that of the law of 1817 would work well. But it was found that although an experienced and able lawyer might present all the questions of fact of his case, and separate them from questions of law, yet his less skillful adversary could but ill defend his cause, and the better lawyer had always an undue advantage. The statute, by almost general consent, was repealed by the code of practice which went in effect into 1825, which provides for reducing the testimony of witnesses to writing, to enable the court above to determine questions of fact, if necessary.

Thus we see the legislature under the provisions of the constitution which we propose to re-adopt, has full power to take from the supreme court cognizance of any class of questions of fact. The attempt made in 1817 was not fortunate; perhaps at some future time the bench and the bar will be enabled to give proper and full effect to a similar project, but is it wise or prudent for us to take a step which is irrevocable, and deprive the court of jurisdiction, which in most cases it is, in the opinion of the most experienced members of the bar, absolutely necessary for the ends of justice? Such a measure would be the extreme of imprudence. Common prudence requires that in a matter so important we should not venture upon a mere experiment, which could only result in confusion and irreparable injury to the sound admisistrator of justice. We are at present not prepared for the change, and its disastrous results

are as certain as cause and effect can make them.

The section, as it stands, gives sufficient power to the legislature to make any change in the apellate power of the court: let us leave this power where it is, with the prospect of its being judiciously and opportunely exercised.

But is it not obvious to the Convention that the provision of the gentleman from St. Landry, transfers this immense power of controlling verdicts to the district judges? A single judge will then have the power now exercised by the supreme court. Is the Convention prepared for this immense investiture of judicial power in a single judge, without supervision and without appeal?

It is clear that such a power would not be vested in our present district judges; and those who are to be oppointed under the new constitution, are they to be better than those who have preceded them? The result can only determine this matter, and while we hope for the best, we may be disappointed. The State is divided into two political parties, each struggling for the ascendancy. I hope that our party feelings will never reach the judiciary; that appointments to that department will be dictated by a single and sincere view to the public interest; but it may be otherwise, judges may be appointed, whom it would be madness to invest with such powers; and before we undertake to give this power to district judges, let us wait and see who they are. Leave the matter as it stands, and let the legislature act as the circumstances of the country may require, and the composition of the judiciary may authorize. Let the Convention not undervalue the power of the judge in granting or refusing new trials. It is immense; it gives him control of the fortunes of the citizen, and the interest of property requires that it should not be committed without control to inexperienced or incompetent hands. With the exercise of the power by the present court, (and I am not the apologist of that court) I have heard some fault found. In my own practice I have no reason to complain of it. It is a mistake to suppose that in order to enable a court to determine a case, it is necessary to read every part of a voluminous record. This would be physically impossible in many cases. Well prepared statements, indexes, the admissions and argument of intelligent counsel, abridge the labor of the judge, and facilitate the investigation of contested matters. Even in the case of the voluminous record, referred to by the learned delegate from St. Landry, it is not pretended that injustice had been done to his client. The reversal of verdicts is not the main cause of the complaints against the supreme court, and I think that it will be generally admitted that much injustice has been prevented by the exercise of this power by the court.

Having no wish, other than that of submitting the results of my experience to the Convention, and none whatever to control their opinion, I hope that matters will be left as they stand, and that we shall not incur the hazards of what I consider a dangerous experiment.

Mr. Preston said, that if the gentleman who took so active and influential a part in the preparation of the report of the majority of the committee upon the judiciary, (Mr. Lewis) would accept the fourth section of the minority report of the same committee, the vote in favor of the proposition would, he believed, be almost unanimous. But, if that delegate leaves it discretionary, it is not unlikely that his object will be defeated. The supreme court from 1813 to 1845, have invariably assumed the ground, that they have jurisdiction as well over the facts as over the law in all controversies, when the amount in dispute exceeds three hundred dollars. They so construe the constitutional provision, and will continue so to construe it, unless it be made specific.

I admit (said Mr. Preston) that in England, and in most of the States of the Union, it has been deemed proper to confine cases of a conflicting character specially to courts, without the intervention of juries. The parliament of Great Britain has so ordered it. In cases, for example, of admiralty and marine jurisdiction; in ecclesiastical cases, and in cases of equity. But in these cases, it is prescribed that the evidence should be taken down in writing, and be spread at large, for the revision of the supreme tribunal. This is all we contend for. Let the legislature adopt the same system as prevails in England, and in the other States. Let special officers be

appointed to take down the evidence in such cases, without the presence of the judge. In cases of successions, the decision of the court is based upon the record, and it can be sent up to the supreme court in case of an appeal. Give us that mode of proceeding, and confine it to such cases, and I am agreed. But in cases where the facts have been ascertained by the finding of a jury, as in criminal cases, and in others, do not place it in the power of the supreme court to decide upon the very same facts. The slightest reflection will show that this is an important course, and experience has demonstrated that there are but few cases where the judgment of the supreme court upon the facts has been accurate. On the other hand, we know from positive experience, that the finding of twelve men, selected in the vicinity, initiated and familiarized into the merits of a controversy, from their knowledge of the parties and of the witnesses, is but seldom erroneous. In most instances, and in most cases, we find that a jury of the vicinage will decide more accurately and more satisfactorily upon the facts, from their acquaintance with the parties, and from the advantage of hearing the testimony from the lips of the witnesses, than judges who glance over the written testimony, or have it abbreviated in a statement of facts. It is superogatory to suppose, that they can read and study the enormous piles of testimony which is taken down for their guidance. They themselves have admitted the fact, by laying it down wisely as a rule, that they will not interfere with the finding of a jury, unless it be clearly contrary to evidence; and in thirty-two years in casting our eyes over their decisions, we find that there are but few cases where they have reversed the verdict of a jury. One dangerous feature of the existing system, is, that it tends to indifference on the part of the members of the bar, the judge and the juries, and it affords opportunities for trickery and bad faith. The fact that the trial is in no respect final before the inferior court, that it may be reviewed both in reference to the facts as well as the law, before the supreme court, which will finally decide it, tranquilizes the conscience of the judge; he feels no great responsibility for his judgment, inasmuch as he may consider it a mere matter of form. The jury anticipate that their verdict may be revised upon the appeal, and if the counsel for one of the parties is disposed to avail himself of this general listlessness, and adroitly manages the taking down of the testimony, while the judge, the jury and the opposite counsel are paying but little attention to the tedious proceedings, it may give him the decided advantage upon the appeal. If, on the other hand, the jury were aware of the fact that their verdict was final, if the judge in the first instance knew that there was great responsibility attached to his decision, he would be more solicitous about that decision; the attornies would feel the importance of presenting their cases in the strongest shape, and would not trust to an appeal for the proper decision of the matter in dispute. The jury would examine and would form their decisions with greater care, and would pay greater attention to all the proceedings had before them. Cases would then be determined with greater order, and with infinitely greater discernment. The only matter of controversy would be upon the interpetations of the law, and that would finally and properly be settled by the supreme court, with more order and more system.

I might well dilate upon the immense loss of time, and the great expense which attends the system. The docket accumulates, business is procrastinated, piles of testimony are taken down while the judge, the jury and the attornies are in a state bordering on somnolency, fatigued by the tediousness of the proceedings in taking down the testimony; cases are put off, parties litigant are kept waiting, and justice, if not denied, comes so slowly that frequently it does not accomplish its purpose. I have within my mind at this moment, a case in which two merchants of this city were involved. The jury, after considerable delay in taking down the testimony, rendered a verdict of twenty thousand dollars in favor of the plaintiff. The record in the case formed one of the largest volumes. The supreme court certainly did not go through it, nor was it anticipated. But, there was delay, and perhaps that was all that was desired. Months passed away, when finally the supreme court came to a decision; they did not pretend to decide the case, but sent it back to be tried by

another jury! They had never read the testimony. It was too great a task to impose upon them. The same proceedings had again to be had; another jury was empannelled, another huge volume of testimony was written out, and the same verdict was again rendered. The case was again taken up on appeal, and was about being argued, when the defendant stopped the proceediegs by giving a check upon a city bank for the amount of the judgment and costs, and thus the matter was terminated, which, as far as legal proceedings were concerned, was as remote, perhaps, from being settled at the time, as when it stood originally in the same position before the appellate court!

Whatever view we take of the subject, we must come to the conclusion, that there are manifold evils in the existing system. Nothing tends so much to enfeeble the efficacy of trial by jury, as the withdrawal from it of a just responsibility, by subjecting its verdicts to revisal on the part of a superior tribunal. Upon questions of fact, a jury is much better adapted to decide than the courts; and if the decisions of juries were made final, subject to the remedy of a new trial, where they may have committed errors, it would be found that their decisions would give greater satisfaction, and be more in accordance with the immutable principles of justice. The supreme court would be relieved from a great press of business, to which it can give but partial attention, and having its attention exclusively directed towards questions of law, those questions would be better and more consistently determined.

Mr. Grymes said that he had listened with scrupulous attention to what fell from the honorable delegate from Jefferson (Mr. Preston) I admit (said Mr. Grymes) that there are some inconveniences in the present system; but on the other hand, I am persuaded that much greater difficulties will flow from the system advocated by that delegate (Mr. Preston) and the honorable delegate from St. Landry (Mr. Lewis.) There is in this nothing astonishing. Man is an imperfect being, and every thing which is fashioned by him, partakes of his imperfect nature. I may be told that he should endeavor to commit the fewest errors possible. I admit it, and yet I am forced to the conclusion that if we are so often led into error, it is because we attempt to reach a speculative perfectability, and do not give sufficient consideration to the actual state of society and to its habits, which, defective as it may be, forms public opinion, and which ought invariably to be consulted.

I am decidedly of opinion, if we adopt the proposition of the delegate from Jefferson (Mr. Preston,) we shall be opening the way for numberless abuses, and for the greatest confusion. And why? Because our community are not prepared to be governed by the proposed system! An experience of forty years authorises me to say that few men will be able to discriminate, in our practice, between questions of law and questions of fact; and if we should heedlessly make this experiment, in despite of experience and the unpropitiousness of the times, I would seriously recommend that the hands of the legislature be not tied; but that the action of that body be left free to undo what may be found upon actual experience to be detrimental. It is to the legislature that should be confided the discretion of making such changes as future exigencies may demand. The community will become but gradually prepared for radical changes such as that proposed; and if you make the change at once, the consequence will be, the jurisprudence of the country will fall into most deplorable disorder, and the people will feel nothing but disgust for this new mode of administering justice. I am convinced that it is better to leave the practice as it is, and commit any reforms which may be necessary to the progress of experience.

In recurring to the question at issue, leaving out the practical results of the proposed system, I would ask, what are the errors of law to be resolved? They can be no other than those derived from the application of the law to the fact in dispute. And it must necessarily be an imperfect system that requires the court to determine upon the law, while it inhibits any investigation into the facts. How is the judge to apply the law, if he does not know the facts; if he does not inquire into their validity, as a preparatory step; if he does not study and examine the depositions of the witnesses? This question is constantly recurring at every step in the practice of the common law: the inconveniences

of such a practice are palpable. Suppose a doubt should arise as to an alleged fact, and that by an erroneous application of the law, the proceedings should be defective; and in that state they should be carried before the supreme court; how is that court to decide, without reference to the facts, that the judgment of the court below is proper or improper? It is obvious that this mode of procedure would entail the very worst results, and that it would seriously compromit the end and aim of justice. The supreme court cannot decide without a knowledge of the *facts*, unless we assume the hypothesis that a question of law may exist independentof the question of fact to which the law is to be applied. This would be a solicism in jurisprudence.

The facts in a judicial controversy, whatever may be said to the contrary, are the foundation of the action, and it would be affirming a grave proposition to assert that these facts are truly resolved, because twelve men, selected at hazard, determine them one way or another. The district courts hold their sessions in the country twice during the year. The judges, the lawyers, the parties are all anxious to get through with their business; and am I to be told that the facts under such circumstances have been properly determined because a jury may have pronounced upon them. It may happen, and does happen that the verdict of a jury is a proper verdict; but it may happen, and does happen that it is grossly erroneous, and flagrantly wrong. What is to become of such cases as these? Is there to be no remedy? It is certainly giving too much power to the inferior courts, and to juries, to say that their finding of facts, and their construction of testimony shall be irrevocable. Do the people desire it? The delegates from Jefferson and St. Landry (Messrs. Preston and Lewis) may think this change a salutary one; but I differ from them most widely in opinion. I do not think it would be safe. It would endanger the stability of property, and would create a want of confidence in the judiciary. It is indispensible to a proper administration that there should be a court of the last resort; and that court necessarily must have cognizance of the facts, or otherwise I hold it to be impossible, at any rate, it will be extremely difficult for it to apply the law properly and understandingly.

But the delegate from Jefferson (Mr. Preston) blows hot and cold in his zeal for innovation. In one breath he tells us that such has been the respect shown by the supreme court for the finding of verdicts by juries, that in a space of thirty-two years it has scarcely happened that they have *reversed* a verdict. Does not the gentleman perceive that he unconsciously pays the very highest tribute to the system he would destroy, and that he answers his own objection by asserting this fact?—Where is the necessity for any change, when you admit that the supreme court shows a decided reluctance to interfere with the finding of a jury, unless it be clearly repugnant to the facts?

I shall not take upon myself to reply to the numerous assertions made by that honorable delegate. As to the particular case to which he alludes, and in which I happened to be one of the counsel, I will merely say one or two words. He says that the supreme court never read the record; that they could not have read it for the want of time; that they committed greater errors than juries, when facts were involved, and that juries were a thousand times more competent to decide upon questions of fact. I would merely observe that these assertions prove nothing more than this: that the honorable delegate from Jefferson does not fancy the judgments of the supreme court! I may be told that this is unfortunate. Be it so! But we are not here to consult the opinions of the delegate upon questions of law, but to consult the wants and wishes of our constituents, in framing for them a constitution under which they may live in peace and quiet.

Of what do the people complain? Whence is that feeling of uneasiness which prevails all over the State? Does it proceed from the administration of justice? Not at all. It arises from a want of confidence occasioned by the defective organization of the judiciary. In correcting the errors of that organization, by limiting the tenure of office, and in creating a responsibility to the people, you meet the public wishes, and apply the axe to the root of existing evils.

As to the clause proposed by the dele-

gate from St. Landry (Mr. Lewis) it is equivalent to the *nisi prius* system of the common law. Are the community, the bar, the bench, prepared for such a system? I answer unhesitatingly, they are not. By this change, there will no longer be a necessity for taking down testimony in writing, there will not be a vestige of proof to guide the supreme court in their decision, but all will be done by a single bill of exceptions. A moment's reflection upon the results of such a practice, will at once convince any man, of unprejudiced judgment, of the insurmountable difficulties which will ensue, if we trust ourselves to such a dangerous experiment. Where is the attorney that feels himself qualified to conduct a case according to this system? For myself I will candidly aver, that although I was admitted to practice in a State where the common law prevails, and have endeavored by great study to qualify myself to practice in the circuit court of the United States, since its extension to this State, it is with great diffidence I undertake business in that court, because the practice differs so widely from that with which I have been familiar for the last forty years; and I would certainly be very reluctant, and indeed quite at a loss, to conduct a suit under the system proposed by the delegate from St. Landry, (Mr. Lewis.) I would be in constant fear, that some important point would escape me, and that I would endanger the rights of citizens who placed their confidence in me. Property is too sacred a thing to be exposed to an experiment.

It may very well happen that among the members of our bar, there are some gentlemen capable at once of adapting themselves to this new system. But if there are any, there are but few, and I can safely assert that in ninety cases out of a hundred, they would not encounter an antagonist who could match them. There would be no kind of equality, and they would necessarily have the decided advantage.

Moreover, this system has once before been attempted. Twenty years ago, a similar experiment was made. Certain theorists, who believed as others now do, in the infallibility of a verdict by juries, importuned the legislature and finally succeeded in getting their experiment tested. The system was established, but after a few years endurance of its inconveniences, it was repealed. The very clause proposed by the delegate from St. Landry (Mr. Lewis) is to be found in the tenth section of the law of 1817. The members of the bar attempted to conform to the practice. They prepared their statements with a great deal of care, but when they came to trial, a thousand facts arose about which they never dreamt. What was to be done, when the discovery was made that their statements were imperfect? Such a system did not answer then—it will not answer now. It was repealed after a trial of three or four years, which resulted in a most signal and complete failure.

Why should we be called upon to abolish a system, about which there is little or no complaint and to which we are habituated? It is infinitely better to leave it discretionary with the legislature to modify the present system as the public wants and conveniencies may require, than to adopt a system, which has already failed of success, and which is unsuited at any rate to our present habits. If hereafter, under other circumstances, such a change may become expedient or necessary, it will be full time to apply it; and that can be done by the legislature in the same manner as in 1817.

Mr. Lewis said he did not intend to reply to the gentleman who had just spoken. What he designed when he made his proposition, was to elicit discussion. He had thought much upon the subject, and considered it not devoid of inconvenience either way. The arguments of those opposed to his proposition, had satisfied him that it ought not to be sustained, and he would withdraw it. But he thought the gentleman had not taken a sufficiently extended view of the question. Some of his objections had not been answered. With the view, that the hands of the legislature should not be tied up, he would propose to add to the section the following words:

"The legislature may limit the jurisdiction of the supreme court to questions of law only, in such cases as shall be determined by law."

Mr. Grymes thought the section perfectly clear, without the amendment. The legislature inevitably possessed the power, and have exercised it. He was opposed to any thing superfluous in the constitution.

He was afraid of too much discrimination and too much explanation.

Mr. Lewis replied that if the legislature possessed the power by implication, what harm would it do to make the section explicit. The construction of the delegate (Mr. Grymes) may be true; he would not gainsay it, but if the construction can be rendered more clear by a single sentence, why not add it? He could not for his soul see that it would lead to any inconvenience; that it could do any harm. It may be found beneficial that the courts of original jurisdiction should, in some cases, exercise an independent jurisdiction. He doubted not that in a great many instances, their decisions would be as satisfactory as those of the supreme tribunals; and as to the policy of relieving that court as far as was practicable, inasmuch as considerable additional labor was imposed upon it, there could not exist a doubt. The legislature would be governed by a sound discretion, and by the public wants and exigencies.

Mr. Eustis said that in making a constitution, care should be taken to introduce nothing that was superfluous. The legislature under the section, possessed the power, and therefore the amendment was unnecessary. They had exercised it under a clause precisely similar in the old constitution. They had passed a law in 1813, immediately after the adoption of the constitution, and again in 1817, upon this very matter. If the learned gentleman indulged any doubts as to the constitutional power, those doubts would be dispelled upon reference to the case of Herman versus Livingston.

Mr. Porter said that inasmuch as there was a difference of opinion as to the construction, between legal gentlemen, it would be better to put this matter to rest, and he would therefore propose to substitute the phraseology of a section, having reference to this same matter, in the constitution of Tennessee. Lost.

The question then recurred on the adoption of Mr. Lewis' amendment.

The yeas and nays being called for,

Messrs. Brazeale, Brent, Burton, Carriere, Chamliss, Conrad of Orleans, Covillion, Guion, Humble, Hynson, Lewis, McRae, Mayo, Peets, Porter, Pugh, Scott of Feliciana and Taylor of St. Landry voted in the affirmative—18 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Brumfield, Cénas, Claiborne, Dunn, Eustis, Garrett, Grymes, King, Legendre, McCallop, Marigny, Mazureau, Prudhomme, Ratliff, Roman, Roselius, St. Amand, Scott of Baton Rouge, Splane, Stephens, Wederstrandt, Wikoff and Winder voted in the negative—27 nays; consequently said motion was lost, and the amendment was rejected.

Mr. Lewis then offered, on behalf of Mr. Taylor of Assumption, the following as a substitute to said section, viz:

"The supreme court shall have civil and criminal jurisdiction on appeals or writs of error in such cases as the legislature may direct, which shall be exercised in the manner prescribed by law;" which substitute was rejected.

Mr. Mayo moved to amend said section by striking out in the last line the word "five," and insert in lieu thereof the word "three."

The yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Prudhomme, Pugh, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winder voted in the affirmative—27 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Cénas, Claiborne, Conrad of Orleans, Eustis, Grymes, Guion, King, Legendre, Lewis, Marigny, Mazureau, Roman, Roselius and St. Amand voted in the negative—18 nays; consequently said motion was carried.

On motion, the section as amended was adopted, viz:

Sec. 1. The legislative power of the State shall be vested in two distinct branches, the one to be styled the House of Representatives, the other the Senate, and both "the General Assembly of the State of Louisiana."

Section twenty-second was taken up and adopted, viz:

Sec. 22. The clerks of the several courts shall be removeable for breach of good behavior, by the judges thereof, subject in all cases, to an appeal to the supreme court.

Mr. Conrad of Orleans gave notice that

he would on Wednesday, move to reconsider the vote rejecting the substitute offered by Mr. Claiborne, providing that the executive shall send to the senate the names of all judges whose term of service shall have expired.

Mr. Claiborne gave notice that he would on Wednesday next, move to reconsider the vote adopting the first section of article fourth.

Mr. Mayo gave notice that he would on Wednesday next, move to reconsider the vote adopting the eleventh and twelfth sections of article fourth.

Mr. Porter submitted the following additional sections, viz:

Sec. —. Clerks in the district courts in this State, shall be elected by the qualified electors in each parish, for the term of —— years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

Sec. —. A sheriff shall be elected in each parish by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed; and who shall not be eligible to serve either as principal or deputy for the two succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, and the person so appointed shall continue in office until the next general election.

Sec. —. All other parish officers shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law.

Mr. Conrad moved that the above sections be laid on the table, and made the special order of the day for Wednesday next, and that they be printed.

Mr. Brent moved for a division, that is to take up each section separately; which motion prevailed.

Mr. Conrad then moved that the first section be laid on the table, and made the special order of the day for Wednesday next, and that the same be printed; which motion was lost.

Mr. Humble moved to fill the blank in the first section with the word "two."

Mr. Garrett moved to fill the blank in said section with the word "four."

Mr. Cenas moved to fill the blank with the word "six."

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquié, Cénas, Claiborne, Conrad of Orleans, Eustis, Guion, Legendre, Mazureau, Pugh, Roman, Roselius Splane, Taylor of St. Landry and Wadsworth voted in the affirmative—16 yeas; and

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prudhomme, Ratliff, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Wederstrandt, Wikoff and Winder voted in the negative—29 nays; consequently said motion was lost.

Mr. Garrett then moved to fill the blank with "four."

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquié, Bourg, Cénas, Claiborne, Conrad of Orleans, Dunn, Eustis, Garrett, Guion, King, Lewis, Peets, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Splane, Taylor of St. Landry, Wadsworth, Wikoff and Winder voted in the affirmative—25 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, Legendre, McCallop, McRae, Mayo, Mazureau, Porter, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Stephens and Wederstrandt voted in the negative—20 nays; consequently said motion was carried, and the blank filled with the word "four."

The yeas and nays being called for, on the motion to adopt the first section as amended, viz:

Sec. —. Clerks of the district courts in this State, shall be elected by the qualified electors in each parish for the term of four years; and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election,—resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Prudhomme, Ratliff, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Wed-

erstrandt and Wikoff voted in the affirmative—24 yeas; and

Messrs. Aubert, Benjamin, Boudousquié, Bourg, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Guion, King, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, St. Amand, Splane, Taylor of St. Landry, Wadsworth and Winder voted in the negative—22 nays.

Mr. Wadsworth then gave notice that he would on Wednesday next move to reconsider the vote adopting said section.

Mr. Garrett submitted the following additional section, and the same was rejected, viz:

"Clerks of courts shall be required to give bond and security in the manner to be determined by law, before entering upon the discharge of their official duties."

The second additional section, offered by Mr. Porter was taken up, viz:

Sec. —. A sheriff shall be elected in each parish by the qualified voters thereof who shall hold his office for the term of two years, unless sooner removed; and who shall not be eligible to serve either as principle or deputy for the two succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, and the person so appointed shall continue in office until the next general election.

Mr. Mayo moved to amend said section by striking out the words "and who shall not be eligible to serve either as principal or deputy for the two succeeding years."

The yeas and nays being called for,

Messrs. Aubert, Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Claiborne, Conrad of Orleans, Covillion, Dunn, Eustis, Guion, Humble, Hynson, King, Legendre, Lewis, McRae, Marigny, Mayo, Peets, Porter, Prudhomme, Ratliff, Roman, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winder voted in the affirmative—34 yeas; and

Messrs. Benjamin, Boudousquie, Cenas, Conrad of Jefferson, Garrett, McCallop, Mazureau, Pugh, Roselius, Saunders and Wadsworth voted in the negative—11 nays.

Mr. Claiborne observed that if the range of popular election was extended to embrace all officers, as appeared to be designed, the people would have little else to do than to attend the polls. It would keep them constantly in a state of excitement and perturbation. In referance to a sheriff, it seemed to him to be a proper precaution to determine who should be the judges of the security for the faithful performence of his duties. Should it be the people: they were the appointing power?

Mr. Eustis thought this mattter ought not to be hastily and inconsiderately passed upon. It would be better to postpone the section for the present.

Mr. Conrad of New Orleans moved to amend said section, by adding to the same the following proviso, viz:

Provided, that if any sheriff should fail to pay over any moneys of the State, collected by him, the parish for which he was elected shall be responsible for the deficiency.

Mr. C. M. Conrad said that the sheriff was an officer who might be regarded as appertaining to the whole State, rather than to the particular parish in which he might perform his functions. He was the collector of the State taxes; and in the discharge of that duty the parish alone was not only interested, but the whole State. Some guaranty ought to be given for his fidelity; and inasmuch as his appointment was confided to the people of the parish, they ought to be made responsible for his fidelity in collecting and paying over the revenues of the State. Hence he had proposed his amendment.

Mr. Brent had a word or two to say in reply to the delegate from New Orleans. (Mr. Conrad.) He could not see that any inconvenience would result by making the office of sheriff elective. No inconvenience could result in exacting from that officer proper security for the faithful discharge of his duties, in the same manner as if the appointment continued to be made by the governor. The plan of electing sheriffs was not a novel or untried experiment. It had been fully tested in several States; and had been found to answer public expectation. A disposition prevailed in a certain quarter of this house to provide for the appointment of public officers in every conceivable way, but in the republican mode of electing them by the people. This appeared to be the most distasteful of all propositions. But we have been told that the sheriff is a State

officer, because he collects the revenues of the State. Now, if that be a serious objection to his election by the people of his parish, why, it is easily obviated. Let the legislature appoint a special officer a tax collector, if they are afraid to trust a sheriff elected by the people of the locality. They have the power to do so. As for the surety to be given by the sheriff, the legislature have the same power of regulating it, whether the sheriff be appointed by the people or be appointed by the governor.

Mr. C. M. Conrad said that the gentleman (Mr. Brent) seemed to admit that there was some impropriety in this mode of appointment. He says that the legislature may constitute another officer and impose on him the duty of collecting the revenue of the State; that they may create the office of tax collector. This is true; but the gentleman should bear in mind that these officers must be compensated; and that it would be creating a new swarm of office holders to eat up the substance of the people. It is unlikely the legislature will do any such thing. The duty of collecting the revenues of the State has been imposed upon the sheriffs because it appropriately comes within the sphere of their duties. It is an easy mode of making these collections; and the question recurs, is it right that the State should be deprived of any control over these appointments? That their appointment should be taken from an officer representing the whole people of the State and given to a small fraction? It must be borne in mind, too, that the sheriff has other important functions to perform, besides collecting the public revenues. He is, moreover, the custodian of criminals; and large sums of money pass through his hands for the administration of the criminal laws of the country. He is under the necessity of acting against his parishioners, and in favor of strangers who may have recourse to the criminal law. Is it not to be apprehended that in his desire to make himself popular, and to avoid the clamor of his neighbors, he may be indifferent or neglectful in the discharge of these duties?—We have had some examples of the evils of electing sheriffs in the neighboring State of Mississippi. For several years in that State, there was a total suspension of legal proceedings. The sheriffs elected by the people refused to execute writs of seizure and sale. This immediately will be the consequence, wherever a discharge of duty is made to depend upon mere personal interest. The sheriff who will harrass the poor and uninfluential man, will hesitate to do any thing that will incur the displeasure of the rich and powerful. But this is not yet all. Political considerations will enter into the contest for election, and the tendency will be to make the sheriff nothing less than a party instrument.

What is to be gained by this extreme system of elections? Do the people desire it? The people are indifferent; they do not desire it! It is sought for only by a few persons, who see in it the means of personal aggrandizement and political turmoil The pretext assumed is, that it will extend the principles of democracy; but its true result will be to produce corruption and immorality, and to destroy republican institutions. It can have no other result; and as for its being in unison with republicanism, it was never dreamed of by the fathers of our republican government. They would have considered it a heresy upon the true republican faith.

On motion the Convention adjourned.

Tuesday, April 29, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Warren opened the proceedings with prayer.

This being the day fixed to reconsider the vote laying on the table subject to call, the resolution allowing mileage to members,

Mr. Humble moved for the reconsideration; the yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Chambliss, Chinn, Covillion, Culbertson, Dunn, Humble, Hynson, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Voorhies, Wederstrandt and Wikoff voted in the affirmative—29 yeas; and

Messrs. Aubert, Boudousquie, Bourg, Carriere, Eustis, Guion, Kenner, King, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Saunders, Winchester and Winder voted in the negative—17 nays;

consequently the motion was carried, and the resolution was taken up, viz:

Resolved, That the committee on contingent expenses be instructed to inquire into and ascertain the amount of mileage due to each member of this body, for his travelling to and returning home from the Convention in New Orleans, and direct the payment of the same.

To which resolution Mr. BEATTY had offered the following amendment, viz:

"And that the committee report to the Convention."

Mr. GUION moved the adoption of the amendment, which was lost.

Mr. KENNER then offered the following amendment, viz:

Provided, That when the member lives farther from New Orleans than from the town of Jackson, but when the member lives nearer to New Orleans than to Jackson, no additional mileage shall be allowed.

Mr. GUION moved to lay the whole subject on the table indefinitely; and the yeas and nays being called for,

Messrs. Aubert, Boudousquié, Brazeale, Brent, Briant, Carriere, Conrad of Orleans, Eustis, Guion, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Penn, Prudhomme, Pugh, Roman, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—23 yeas; and

Messrs. Brumfield, Burton, Cènas, Chambliss, Chinn, Claiborne, Covillion, Culbertson, Dunn, Humble, Hynson, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill and Wederstrandt voted in the negative—30 nays; consequently said motion was lost.

Mr. RATLIFF moved to lay the proviso offered by Mr. Kenner, on the table indefinitely, and the yeas and nays being called for,

Messrs. Briant, Brumfield, Burton, Chinn, Chambliss, Covillion, Culbertson, Dunn, Humble, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—29 yeas; and

Messrs. Aubert, Boudousquie, Brazeale, Brent, Carriere, Cénas, Claiborne, Eustis, Guion, Hynson, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Penn, Pugh, Roman, Wadsworth, Winchester and Winder voted in the negative—22 nays.

Mr. RATLIFF then moved for the adoption of the resolution. The yeas and nays being called for,

Messrs. Brumfield, Burton, Chambliss, Cénas, Chinn, Covillion, Culbertson, Dunn, Humb e, McCallop, McRae, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Brazeale, Brent, Briant, Carriere, Claiborne, Conrad of Orleans, Eustis, Garrett, Guion, Hynson, Kenner, King, Labauve, Legendre, Lewis, Mayo, Mazureau, Penn, Prudhomme, Pugh, Roman, Trist, Wadsworth, Wikoff, Winchester and Winder voted in the negative—29 nays.

Mr. MAYO offered the following resolution, viz:

Resolved, that mileage be paid to members who reside further from New Orleans than Jackson, for the additional distance to and from their residence, to New Orleans; and for those who live nearer New Orleans than Jackson, such sum shall be paid them as mileage in addition to what has already been paid to them, as will make the whole mileage to such members, equal to full mileage for going and returning from Jackson to New Orleans.

Mr. WADDILL moved to lay said resolution on the table; which motion was lost.

Mr. MAYO moved for the adoption of the resolution; and the yeas and nays being called for,

Messrs. Brent, Brumfield, Burton, Cénas, Chambliss, Chinn, Covillion, Culbertson, Dunn, Humble, Garrett, Hynson, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Saunders, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Wederstrandt and Wikoff voted in the affirmative—31 yeas; and

Messrs. Aubert, Benjamin, Boudousquié, Brazeale, Carriere, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Guion,

Kenner, King, Labauve, Legendre, Mazureau, Prudhomme, Pugh, Roman, Scott of Baton Rouge, Waddill, Wadsworth and Winder voted in the negative—22 nays.

Mr. MARIGNY submitted the following proposition, to be embodied in the general provisions:

"The secretary of the senate and the clerk of the house of representatives shall possess the French and English languages; and in the senate, as well as in the house of representatives, the members shall be free to speak in the French or English language;"

And, on his motion, it was laid on the table, to be taken up when the general provisions should be under consideration.

ORDER OF THE DAY.

The following section, offered by Mr. Porter, viz:

SEC. 2. A sheriff shall be elected in each parish, by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed.—Should a vacancy occur subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor be elected and qualified.

To which section Mr. CONRAD of Orleans had offered the following proviso, viz:

"*Provided*, that if any sheriff should fail to pay over any moneys of the State, collected by him, the parish for which he was elected shall be responsible for the deficiency."

Mr. PORTER would beg leave to make a few remarks in reply to the observations that fell from the delegate from New Orleans, (Mr. Conrad) yesterday. He was suffering from a violent head ache, and would beg the indulgence of the house, if he treated the subject rather cursorily. The gentleman from New Orleans (Mr. Conrad) had attempted to show that a sheriff was not the officer of a parish, but an officer of the State; and therefore, he reasoned that it was not right that the appointment should be confided to a fraction of the whole population. The delegate from New Orleans (Mr. Conrad) cannot be serious in such an argument as that; for he cannot be ignorant of what is known to the simplest countryman. With the exception of the collection of the State taxes, which may in fact be attributed to another officer, the sheriff is essentially a parochial officer. His duties are essentially in the parish, even in the collection of revenue; and in every other respect he is a parish officer. If the official relations of the sheriff are to be taken into consideration, as is argued by the delegate from New Orleans, (Mr. Conrad) then the appointment would of right belong to the judge; for the sheriff has functions almost entirely appertaining to the court. The object, in fact, appears to be to divide patronage between the judges and the governor; as for the people, they are apparently deemed by the delegate to be the worst medium of appointment!

The true question involved is this: who are the most capable of selecting a sheriff? Is it the governor, who is called on to make the appointment, particularly for a remote parish, or is it the people of the parish themselves? How can the governor be personally cognizant of the merits of the person soliciting the appointment? He must rely upon the representations of others; and the value of these representations, as a guide, is too well known, in a majority of cases, to need comment. If the governor were unlimited in his choice, and could at will transport a sheriff from one part of the State to another, as has been done, he might make a good selection; but if he be restricted to the parish, is he more competent—aye, is he as competent to make the selection, as the people of the parish themselves?

But the gentleman says that if you confide the appointment to the people, instead of the governor—to the creators, instead of the creature, they ought to be made responsible for any delinquency, should such occur, on the part of the sheriff. Now sir, it strikes me as a bad rule that will not work both ways. The governor is, under the old constitution, the appointing power. Is the governor responsible for the fidelity of the sheriff she may appoint? I imagine not. The executive power would be very loth to assume such a charge; and yet upon the same principle, it would be as reasonable to propose that the governor should be responsible for any deficiency that might occur in the accounts of the sheriffs appointed by him! The gentleman must perceive the extreme ridicule

of such an argument. I hardly think he can be in earnest in employing it. He must be jesting, as he once said I was, on another occasion.

But the gentleman from New Orleans (Mr. Conrad) is not yet satisfied. He wishes the clerks of courts to be appointed, as well as the sheriffs. But by whom? By the judge! and thus it is, that the patronage of office when taken from the government, is to revert to the judiciary! This seems to be the gentleman's favorite mode. The people are incapable of making judicious appointments, and if they are allowed to make any appointments, they must be charged with the fidelity of the offices they neglect. This is the gentleman's doctrine. He says that there has never been any complaints in the city about confiding to judges the power of choosing their own clerks. That may very well be the case in the city. But the gentleman should remember that in the country the district will embrace three or four parishes. Admitting then, that the plan may be satisfactory in the city, does it follow it will be satisfactory in the country? Or does it follow because the judges in the city may have made good appointments of clerks, that the people are incapable of electing good clerks? The principle involved is the same in the election of one set of officers, as another set of officers. If the people can elect a good representative, a good senator, or a good governor, why not a good clerk of a court? Is there any thing so peculiar in the functions of a clerk, that he must be placed beyond the power of the people, and invested with his office for life? The office of clerk under the new system, will be one of the most important offices. But the gentleman says, that the judge should have the same power of appointing his clerk as a commission merchant? It seems to me that there is no similarity between a public duty and a man's personal business. The merchant may get a cheap clerk; is the judge to follow the same plan and to pocket the balance of the fees. This would follow, if the gentleman's argument is to be considered valid. The judge could make the best bargain, and may retain the balance for his own benefit, regardless whether the public interest suffered or not. He could put up the office of clerk of the court at public vendue, and have it knocked down to the lowest bidder. Some gentlemen are disposed to go very far to favor the judiciary. They are in the first place to be the recipients of extraordinary salaries. They talk of eight or ten thousand dollars as a salary for a judge, as a mere trifle, basing their calculations on exorbitant fees paid to attornies in the city. They do not know the wants and exigencies of the people of the country. That the producers of the soil have to labor with their hands, and do not coin money in that way. But high salaries are not alone sufficient. The judges must have patronage. They must appoint and control the clerks, and be unlimited in their sway over the fortunes of their fellow citizens. There is to be no check any where. The advocates of such a system have indeed singular notions of the principles of republican government.

There would be great inconvenience for the judge of a district in the country, embracing several parishes, to make the selection of a clerk, and his appointment might very well not be such an one as would give satisfaction to the majority of the people in the district. Certainly the people of the whole district should participate in the selection. But this is not all. It would have a corrupting and baneful influence. The people have seen the injurious effects of the overgrown patronage of the governor, but bad and pernicious as that influence may become, it is by no means comparable to what would follow similar patronage on the part of the judicial power.

In the re-organization of the judiciary department, the people have got little or nothing. Both the proposition to elect the judges by the people, as well as the proposition to elect them by the legislature, were voted down, and the patronage of judicial appointments is continued in the executive. The people will only exercise a remote influence upon these appointments, and that only by a single reform, the abbreviation of the tenure of the judicial office. We are disposed to yield to the will of the majority of this house, objectionable as may be some of the features embodied in the system. All we ask is the poor boon, in the name of the people, of electing their parish officers. If this be

refused, it will raise a cry of indignation that will follow those who would deny it to the people, to their graves, from one end of the State to the other. I would beseech gentlemen to beware. The governor and the judges are but servants of the people, and the people are as capable of appointing their other servants as they are of appointing the governor. They will not fold their arms, and see political power taken from them, and transferred to their agents, without a struggle.

Mr. KENNER called for the previous question, which was sustained.

Mr. CONRAD of Orleans, moved for the adoption of the proviso; the yeas and nays being called for,

Messrs. Aubert, Bourg, Conrad of Orleans, Conrad of Jefferson, Legendre, Mazureau, Pugh, Voorhies and Wadsworth voted in the affirmative—9 yeas; and

Messrs. Benjamin, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Cénas, Chambliss, Chinn, Covillion, Dunn, Eustis, Garrett, Humble, Hynson, Kenner, King, Labauve, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—41 nays; consequently said motion was lost.

Mr. PORTER then moved for the adoption of the section.

The yeas and nays being called for,

Messrs. Aubert, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Guion, Humble, Hynson, Kenner, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—37 yeas; and

Messrs. Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, King, Labauve, Legendre, Mazureau, Pugh, Roman, Splane, Taylor of St. Landry and Wadsworth voted in the negative—18 nays; consequently said motion was carried.

Section third, offered by Mr. Porter, was taken up, viz:

SEC. 3. All parish officers not otherwise provided for by this constitution, shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law.

Mr. LEWIS moved to amend said section by striking out the words "elected by the qualified electors of the different parishes," and insert in lieu thereof the word "appointed;" which amendment was lost.

Mr. CENAS moved to lay the section and amendment on the table, subject to call; which motion was lost.

Mr. PORTER then moved for the adoption of the section; and the yeas and nays being called for,

Measrs. Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Guion, Humble, Hynson, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—31 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Guion, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Splane, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—25 nays; consequently said motion was carried, and the section was adopted.

On motion, the Convention took up article sixth.

ARTICLE SIX—GENERAL PROVISIONS.

SEC. 1. Members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of this State. So help me God!"

On motion of Mr. LEWIS, said article was laid on the table, subject to call.

Section second was taken up and adopted, viz:

SEC. 2. Treason against the State shall consist only in levying war against it, or

in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

Section third was taken up and adopted, viz:

Sec. 3. Every person shall be forever disqualified from serving as governor, senator or representative, and from holding any other office of trust or profit in this State, who shall have been convicted of having given, or offered any bribe to procure his election or appointment.

Section fourth was taken up and adopted, viz:

Sec. 4. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult or other improper practices.

Section fifth was taken up and adopted, viz:

Sec. 5. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money for the support of an army be made for a longer term than one year. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

Section sixth was then taken up and adopted, viz:

Sec. 6. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbritrators, to be appointed by the parties who may choose that summary mode of adjustment.

Section seventh was taken up, viz:

Sec. 7. All civil officers for the State at large shall reside within the State, and all district or parish officers within their respective districts or parishes, and shall keep their respective offices at such places therein as may be required by law. And no person shall be elected or appointed to any district or parish office, who shall not have resided in such district or parish long enough before such election, or appointment, to have acquired the right of voting for representatives to the general assembly in such district or parish.

Mr. Eustis moved to amend said section, by striking out all of the last paragraph, commencing at the word "and" in the fifth line.

Mr. Eustis said: the results which would follow this provision were more serious than were anticipated. Now, sir, I can well understand that it may meet the views of persons who may hope to be appointed to office; and that it may gratify the petty ambition of some village lawyers, but I nevertheless hold that it is contrary to the public interest, and for this reason: that it restricts the executive choice to a circle in which it may be difficult to find any thing but mediocrity and incapacity. Why, in the face of experience and sound judgment, attempt to limit in this way the power of your executive? It seems to me that discussion is less necessary than reflection! There are a class of persons who imagine that all established authority, all existing forms of government, are, from the mere fact of their existence, defective and vicious. Nothing which has stood the test of time suits them, and they can see nothing but error and delusion in the opinions of those who differ with them. It is sufficient to differ with them to be wrong.

If we consult the experience of the past we find that in about fifty conventions that have been held in the twenty-six States of our Republic, there is not a single constitution in which a similar experiment has been made. Is it to be considered all sufficient for one to say, "I am a resident of this particular parish," and does that enunciation carry with it the higher recommendation of fitting qualifications to hold a responsible public office? To admit such an argument would be to travel from one extreme to another; it would be placing ourselves at the mercy of incapacity and ignorance. It would be to withdraw from the appointing power the circle of the whole State, from which to make his appointments, and trust our institutions to a mere novelty, to the pleasure of making a dangerous experiment! Who ever heard in England, or in our sister States, that a judge must necessarily be taken from a particular county, from this or that particular

section of the State? Why such an idea never entered the minds of the fathers of our republican institutions. Where is the necessity for these local restrictions? where is there use? A judge is chosen to protect the life, the reputation and the property of the citizen, all that is dear and precious to him, and yet you would impose a mandate in your constitution that this judge must be taken from a certain locality, without reference to the fact whether a person fully competent can be found to accept. Intelligence and capacity become of no moment, and the only indispensable condition is locality. How are we to gratify such a condition otherwise than as a piece of insufferable folly?

Without doubt there are to be found in most of the judicial districts, into which the State has been divided, men highly capable and every way worthy of the appointment of judges, but it may happen that they will not be disposed to accept, and hence the necessity may arise of being obliged to seek elsewhere for competent persons. How is it that gentlemen, who have during the protracted and animated bebates that have attended our proceedings, resisted and combatted the spirit of restriction; how, I would ask, can they advocate a principle which is calculated to do more harm than all other restrictions put together?

I have said that all history is against such a restriction. The nation that possesses the best laws, but whose laws are the worst administered, and which once held sway over our territory, has in the Partidas, which is a monument to the memory of Alonzo the wise, consecrated the very reverse of the principle you seek to establish. No man, according to those laws, could be eligible to the office of a judge, who was born in the place in which he was to exercise his functions. This principle was founded on a thorough knowledge of the human heart. It was designed to place the magistrate beyond the influence of local feelings and resentments. Man is so constituted that if he has a favor to dispense he seldom looses sight of his relations, his partizans and his friends. It would be unwise to say that the choice of a magistrate should be restricted to a particular locality, instead of leaving the whole State open for the judgment of the executive, in which to make a fitting appointment. What is it whether a man be appointed judge from this side or that side of line dividing contiguous and neighboring parishes and whose populations are identical in feelings, interests and habits? I would ask the learned delegate from Caddo whether he would not be satisfied with a good judge, even although he should be selected from the Ouachita distrtct?

Mr. Porter said he would prefer a good judge, selected in his own district.

Mr. Eustis: Feelings of petty localities are not favorable to the public weal, especially, it may be said, in reference to judicial appointments. Sentiments, attachments and affection burn very strongly in the bosom of our population, and it may be a matter of very questionable policy how far it is expedient to stimulate those feelings in the extremely delicate functions of a judge, by appointing only those to administer justice who are residents of a parish where a large portion of the population are their relatives, and where it may be presumed they may have imbibed strong personal predilections, and personal animosities. These are subjects for executive forethought, and the utmost lasitude of choice should be afforded the governor, to make a judicious selection, irrespective of mere parish lines.

Those noble and generous impulses which attaches a man to his family, and which may induce him to give a preference to his family and to his friends, may have a dangerous tendency in the exercise of the judicial office; and even if a magistrate have sufficient firmness to withstand such an influence in his official capacity, it nevertheless may expose him to censure and to suspicion. It may be inferred that the inviolability of justice has been sacrificed to subserve the claims of kindred; and in this way public confidence may be wholly withdrawn. What a degrading situation for a judge; and what a degrading situation for the character of our laws!

Here then, we find two imminent perils to be encountered. On one side ignorance and degradation, on the other the presumed influence of family feelings and friendship. This is the alternative. Why, then, limit the power of the governor to appoint? why circumscribe him to particular bounds, instead of giving him the whole State from

which to make a selection, relying upon his discretion, that if it be proper to appoint from the particular parish, he will do so, and if it be improper, he ought not? The influence of prejudice is ahead, sufficiently strong to make the tendency in favor of these local selections. Why pronounce a solemn mandate, and decree that the executive shall not go beyond the precincts of a parish? At best, what is it but an experiment? An experiment that no other State has tried, and which is repugnant alike to sound reason, to justice, and to experience.

Mr. Lewis said that the grounds assumed by the honorable member (Mr. Eustis) had created in his mind great surprise. He was astonished at the warmth displayed by that delegate. Although I do not assent, said Mr. Lewis, to all the propositions that I had reported, as chairman of the committee upon general provisions, with the understanding that I would urge my objections when they came before the Convention, this particular proposition is not among those to which I dissented. It met the hearty and unanimous assent of the committee, and notwithstanding the appeals of the delegate to history, I maintain that the provision is loudly called for, and will be acceptable to the great mass of the people.

There is no subject of more general complaint than the arbitrary exercise of the executive power, in appointing officers from one section of the State for another section. Upon one occasion I remember that the attempt was made by an executive to force upon a district a judge from another portion of the State, and it was alone unsuccessful from the firmness and determination displayed by the senate to resist it.

The gentleman tell us that the Partidas embraces the best system of laws extant, but the worst administered. He says that by a provision, which he considers very salutary, natives of the particular locality where they are enforced are excluded from the appointment of judges. This argument is suicidal, it detsroys itself, since the gentleman says the laws are good, but the administration is bad. The fault then lies with the persons administering them, and this destroys the principle which he appears to consider so beneficial.

But what is most extraordinary is that the delegate would have us believe that the section will operate peculiarly to the benefit of village pettifoggers, whose chances of judicial promotion will be thereby greatly increased; which is as much as to say, that in the districts generally, men of standing at the profession of the law, are not to be had to fill those appointments, and that therefore, out of the necessity of the case, the governor should be permitted to go beyond the district in making the nominations. If this argument hold good in relation to the selection of judges, it will hold equally good in the selection of all local officers. It will be necessary to grant to the electors of a parish the privilege of the whole State to make a suitable appointment of a representative to the legislature, of a senator, of a sheriff, or of the clerk of a court. There may be some disparity in the amount of talent in different sections of the State—the city, for example, may possess more talent than the country, but if the executive appoints from the best materials before him, no complaints will be made, and the citizens will be better satisfied with their own citizens to administer their laws, than with citizens imported from more favored sections of the State, even though they should possess a greater degree of abilities in the opinion of the gouernor. In the selection of the judges of the supreme court, the latitude of the whole State is given to the executive. This is proper, because the functions of those officers appertain to the whole State indiscriminately. But for district courts it is equally obvious that the appointments should be made from the districts, and not from the State at large. There is a peculiar fitness that the judge should be taken from the district in which he is to preside, and when it is borne in mind that the districts are composed of several parishes, the facilities of choice are abundantly great to make suitable appointments. It is unfortunate that in some districts but six or eight suitable persons may be found, perhaps when there are hundreds in the city of New Orleans, but from this limited number a good appointment may be made, at any rate a more satisfactory one to the people, than if recourse was had elsewhere. The detailing of citizens from one section of the State to hold offices in other sections, has produced great com-

plaints. In some instances, where the nominees have been taken from the city, loud and vehement complaints have followed. If all power emanates from the people, the people have a right to govern; and their feelings, and even their prejudices, (if it be a prejudice for them to prefer those domiciliated among them, to strangers) should be taken into some account. Every delegate on this floor is aware of the general dislike to the imported appointments, that prevails all over the State, and that they are submitted to with great reluctance.

It is well known, that I am far from being radical in my views, but I do respect the will of a large number, and I do think that public opinion ought to be consulted. Public opinion has settled clearly in favor of appointments being made from the parish or the district where the officer is to exercise his functions, and I think the principle is a good one. As for the alledged inconveniences that may result, I think they are greatly exaggerated. I do not believe there is a district in the State, in which a proper selection may not be made. And on the other hand, great evils would be the consequence, if the executive were left unrestrained, to impose upon the people of a district, persons from another district, with whom they were not identfied, and it might well happen, as has happened, that persons of real merit in the district would be overlooked, to give the appointments to favorites elsewhere. If the truth is to be told this has happened very much to the detriment of the public service, and very much against the wishes of the people, whose preferences have been disregarded. I hope the section will be adopted: it will be wise and salutary in its operation, I have not a doubt.

Mr. C. M. Conrad said, that it might have happened in certain instances, that the executive power may have misconceived the claims of persons residing in a parish or in a district, by appointing citizens residing in other portions of the State. But in general, he believed, the practice of the executive was never to proceed to those nominations without consulting the wishes of the prominent and leading persons residing in the particular locality. An error, or an exception does not make the rule, and I am apprehensive, (said Mr. Conrad) that to avoid one difficulty we shall fall into another and a greater difficulty. What extent of territory will form a judicial district under the new constitution? A vast extent of territory, an immense circle in which will be found parishes, where there will be no want of proper talent for the judicial station? I apprehend not! The abolition of the parish court system, will infallibly result in a diminution of the actual size of the districts to less than one half of what they now are. This will be the result sooner or later, and to make it obligatory upon the governor to make his appointments strictly within the limits of each district, is in effect to confine his choice to one or two lawyers that may be found residents within the district, and both of whom may be incompetent. When I say one or two lawyers, I do not indulge in exaggerated language, for it is notorious that in some sections of the State where litigation is not prolific, and where the inhabitants are indisposed to hazard their little all in suits, there are few if any, members of the profession. It would be as well, inasmuch as the effect would be the same, to say at once that the governor should choose from three or four individuals, and that his choice should not be extended beyond them. There might be on the opposite side of the parish line, a legist of accomplised abilities, and although the people would prefer his nomination to that of either of those individuals, the governor would be restricted by this unfortunate section. He would be compelled to choose an unworthy person, although convinced of his unworthiness. Where is the wisdom of such a restriction? Where its necessity?

But the pernicious consequences do not stop here of this arbitrary provision. I would ask the honorable delegate (Mr. Lewis,) if there are not others interested in the administration of justice, save those who are the immediate residents of the district? Has not the judge to perform duties which affect others than those residing the district? Suppose I institute a suit againgt a resident of the parish of St. James, or a resident of the parish of Livingston, would I not be as much interested in the matter of who was judge, whether he was a capable, upright man, as if I were a resident of those parishes instead of the parish of Orleans? It is a mistaken notion to imagine that no other citizen in the State should be eligible

to an office but the resident of the particular locality, where its duties are fulfilled, where from the nature of the office, it operates upon and may effect the interest of a citizen of one portion of the State as well as another.

The delegate from St. Landry, (Mr. Lewis,) has told us that judges were imported from the city for the country. I have no recollection of any such occurrence.

(Mr. Lewis: Among others I referred to the appointment of Judge Curry.)

Mr. Conrad: I did not think of that particular appointment, but I have no doubt it was satisfactory to a majority of people in the district, or it would not have been made. But admitting that abuses may grow out of the discretionary power of the governor to appoint out of the district, if he thinks it expedient, is not the senate constituted as a check upon the governor, and will not the feeling in favor of local appointments be sufficiently strong, to restrain the governor and preclude the possibility of an arbitrary exercise of the power? If you restrict the executive to local appointments, you may change the appointments for the office, but will the change be for the better? This is the true question to be resolved! It is one you will vainly seek to avoid. A Judge should be capable, free from reproach or suspicion, assiduous, just, and above all impartial. Are you sure that within the prescribed circle of a petty district, you will find a person uniting all these qualifications, willing to accept the appointment, and that whenever there be a vacancy? And if it should so happen that your expectations are disappointed, in what an unfortunate predicament you place the appointment. I am fearful you are about to introduce a principle in your constitution, which will germinate mischievous results. I would appeal to the honorable gentleman (Mr. Lewis,) for an example of the fatality of such proscription. He is a resident of the county of Opelousas, but is equally as well known and appreciated in the county of Attakapas. Suppose he were nominated Judge of a district embraciug the county of Attakapas alone, would the people object to his appoin;ment on the ground that he was not a resident within their district. They would hail it with great satisfaction, with as much satisfaction as if he were an actual resident, for they would have confidence in his integrity and abilities, and as for the matter of mere residence, they would consider it beneath their liberality and discernment. The same remark will apply to a thousand individuals in the State, who are as well known by public opinion in one locality as in another; and yet if the people of the district themselves should desire the appointment of a particular person without reference to his residence, they would not be gratified and would be compelled to receive an incompetent person because he happened to be a resident.

If the section is to be adopted, it strikes me that it ought to be modified, so as to embrace a congressional district or at least two or more counties in one judicial district. I would suggest to strike out in the sixth line, the words "district or;" the section would be then less exceptionable.

Mr. Wadsworth said, that if he had entertained any hope of success, he would when the legislative article was under consideration, have moved to strike out the restriction requiring the representatives and senators to be residents of the parishes and of the district which they represented, because he thought that the people had a right to elect whomsoever they pleased, and because the fact of a man's being a resident of one particular place as disqualifying him from representing another, was a matter for the poople themselves to determine. If they saw fit to elect a person not domiciliated in their parish, they should have the faculty of doing so. As for the particular section under consideration, I think, (said Mr. W.) I can cite an example that will show its utter absurdity. It so happens that in the district formed of the parishes of Plaquemines, St. Bernard and the right bank of the parish of Orleans, I am the only member of the legal profession to be found. If this section passes, the governor will be under the necessity of making me a district judge, if I choose to accept it, and if I do not, there will be no judge, and then he will have to make me district attorney: so I will argue on the one hand and decide on the other. But suppose I do not accept, or that I resign, who can the governor appoint? This mere fact shows the absurdity of such a principle. It is perfectly ridiculous.

Mr. Penn said that the honorable dele-

gate, (Mr. Wadsworth,) was laboring under a misapprehension. It did not happen that such a contingency as the one upon which that delegate relied, existed. To my knowledge, (said Mr. Penn,) there are other lawyers in that district. There is Mr. Ducros, formerly a member of the senate, and Judge Rousseau. But even admitting that the delegate, (Mr. Wadsworth) was right in his conjecture, that does not authorise a departure from principle; and are other portions of the State to suffer because the parishes of Plaquemines and St. Bernard, are not provided with lawyers. Having set the delegate right as to this point, I will now proceed to examine the principle.

There is nothing, perhaps, that has produced greater exasperation and feeling among the people than the attempt to force upon them magistrates with whom they have no acquaintance, and no identity of association and feeling. What are the powers of the people under the new constitution? They are to have the privilege of electing their sheriffs and other parish officers. But should the sheriff or clerk of the court resign, or die, the appoinment for the remainder of the term devolves upon the governor. Suppose this section be rejected, what will be the result in reference to these appointments? A person from another quarter of the State may be appointed, if the governor should think fit to prefer him to a resident of the locality. He may consult his own feelings, at the expense of those of the people of the parish. He may appoint a friend, a partizan, and transfer him from one remote portion of the State to another. Is such a power as this to be confided to the executive; and particularly in reference to judicial appointments? Is it designed that an utter stranger should be sent to a district to decide upon the reputation, the property and the lives of the citizens? One in whom no confidence is reposed, and who is totally unknown to the mass of the people. Experience, and the loud complaints which have resounded from one section of the State to another, should induce us to pause in such a purpose.

The honorable delegate from New Orleans, (Mr. Eustis) has appealed to history as opposed to the section. I am somewhat astonished that a gentleman so well versed in the annals of the State, should have forgotten an appointment made by governor Robertson, in defiance of the wishes of the people. He appointed in the Florida district, a man who had been but recently in the State, and of whom the people knew nothing, to be judge. That indiviadual may have been, and doubtless was a man of education, but he was totally ignorant of the people, among whom he was about to dispense justice; he was ignorant of our legislation and of our peculiar system of laws; and yet the governor insisted upon his appointment. At the death of this gentleman, his place was filled by another, not more acceptable to the people; one whose decissions were more frequently reversed than any other judge in Florida, and who was immensely unpopular. Under the administration of governor White, notwithstanding the wishes of the people and the sense of the senate, an unsatisfactory nomination was made, and persisted in, and it was only after a great deal of difficulty, that judge Jones was finally appointed, a gentleman, although I desire not to pronounce his, or any ones eulogium, who is not inferior, in point of ability and integrity to any man in the State. I think the section contains a principle highly salutary, and that the reverse of that principle is subversive of democratic institutions.

Mr. Wadsworth said that he was aware that Mr. Ducros was a lawyer by profession; but he was not a practicing lawyer. He did not think that Mr. Ducros would enter the lists. The contest would thereforefore be between him and judge Reausseau, and that would be no contest; for, if judge Reausseau took the judgeship, then the district attorneyship would have to be conferred on him. The result would be about the same.

The yeas and nays being called for on Mr. Conrad's amendment, to strike out in the sixth line, the words, "district or,"

Messrs. Aubert, Benjamin, Boudousquie, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad, of Jefferson, Dunn, Eustis, Guion, Kenner, King, Legendre, Marigny, Mazureau, Roman, Saunders, Winchester and Wadsworth voted in the affirmative—29 yeas; and

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Garrett, Humble, Hynson, La-

bauve, Lewis, McCallop, McRae, Mayo' Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the negative —36 nays; consequently said motion was lost.

Mr. KENNER moved to amend said section by inserting after the word "district," in the seventh line, the words "next adjoining or contiguous."

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Dunn, Eustis, Garrett, Guion, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Pugh, Roman, Saunders, Wadsworth and Winchester voted in the affirmative—24 yeas; and

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—33 nays; consequently said motion was lost.

Mr. LEWIS then moved for the adoption of the section.

The yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Garrett, Humble, Hynson, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—37 yeas; and

Messrs. Aubert, Benjamin, Boddousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Dunn, Eustis, Guion, Kenner, King, Legendre, Marigny, Mezureau, Roman, Winchester and Wadsworth voted in the negative—20 nays; consequently said motion was carried, and the section was adopted, as follows, viz:

SEC. 7. All civil officers for the State at large, shall reside within the State, and all district or parish officers within their respective districts or parishes, and shall keep their respective offices at such places therein as may be required by law; and no person shall be elected or appointed to any district or parish office, who shall not have resided in such district or parish long enough before such election or appointment, to have acquired the right of voting for representatives to the general assembly in such district or parish.

Section eighth was taken up, viz:

SEC. 8. The legislature shall determine the duration of the several public offices, when such duration shall not have been fixed by this constitution; *Provided*, that such time shall never exceed four years; except notaries public, whose time of office may be extended to seven years; and all civil officers, except the governor and judges of the superior and inferior courts, shall be removable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

Mr. WADSWORTH thought the whole provision useless. It would create confusion. It would be much better to leave the whole matter discretionary with the legislature.

Mr. EUSTIS said he was one of those that thought that public officers were, and ought to be, responsible to the people for the power delegated to them. But there were officers whose functions required qualifications so difficult to be met with, that prudence necessitated that they should be exceptions to what ought to be considered the general rule. Among this class of exceptions, he would place notaries public. A good notary is more difficult to be found than a good lawyer. A dozen may be appointed, you may fill the office, you may appoint a notary, but you cannot make a notary. The notary is necessarily the architect of his own fortunes. His business depends upon his skill and his reputation. It is to his hands that are confided the most important papers and the most important matters appertaining to society. From him are expected fidelity, order, discretion, punctuality and an intimate knowledge of the titles of the country; and can we reasonably hope to meet

with all these qualifications whenever we please? It may be that you can get a ready copyist; but is a ready copyist alone suited to the delicate and important functions of a notary? Will a good hand writing and ordinary business habits be sufficient? How much harm can be done by an unskilful person, who is charged with the functions of a notary, if he be entrusted with the public business. The functions of the notary is directly connected with the safety of property and the proper fulfilment of contracts. I would appeal to the honorable and learned delegate, (Mr. Lewis) whether it would not be most unfortunate to expose property and the interests of families to constant peril, by impairing and destroying all the guaranties of having proper persons to fill the office of notary, and by making the tenure of the office uncertain, to create constant fluctuations in it, which would doubtless, be attended with pernicious consequnences.

The question was called for on the first part of the section.

Mr. Mayo proposed to add to it the following:

"Until his successor shall have been duly elected and qualified."

Mr. Lewis considered the amendment unnecessary, inasmuch as the legislature were vested with the necessary power under the section.

Mr. Mayo's amendment was lost, and the first part of the section was then adopted.

Mr. Lewis said that the delegate from New Orleans (Mr. Eustis) had appealed to him whether the exception in favor of notaries public should not be maintained as proposed by the section as it originally stood.

To this appeal I would (said Mr. Lewis) reply that I coincide in opinion with him that a notary should possess the qualifications he has enumerated. But notwithstanding, I do not consider that a notary should be an exception to the general principle established in relation to all other officers. If a notary be faithful and competent, it is to be presumed he will be reappointed. I can see no good reason why greater importance should be attached to the tenure of office of a notary than of a judge. We have limited the tenure of judicial office to six years, and if the argument held good in relation to notaries, that they should be appointed indefinitely, the same argument would hold good, and in a greater degree, in relation to the tenure of office of judges. But the argument is unsound in either case; for the responsibility which will result from a limited tenure will produce more good than all the benefits which have been supposed to follow independence from popular control, on the part of public officers, and a permanent tenure. There are other offices no less important than notaries, that have been limited; and yet experience has demonstrated no inconvenience from the limitation. The highest dignitaries of the Republic, the president holds his office but for four years. Moreover, it is to be hoped that none other but capable persons will be appointed notaries; just in the same way that we expect that none but capable persons will be appointed judges.

Mr. Humble called for the previous question, which was sustained.

The question was taken on Mr. Lewis' motion to strike out the words "except notaries public, whose term of office may be extended to seven years."

The question then recurred on Mr. Wadsworth's motion to strike out the whole of the proviso, and it was carried —yeas 29; nays 25.

Mr. Lewis then moved for the rejection of the section. He said that by striking out the proviso full power was conferred upon the legislature to continue offices for life; the section became useless, if not dangerous, and for that reason he hoped it would be rejected.

The yeas and nays were called for on the motion to adopt the section—yeas 27; nays 26; the president having voted in the negative, the motion to adopt was lost.

Whereupon, on motion, the Convention adjourned.

Wednesday, April 30, 1845.

The Convention met pursuant to adjournment.

At the request of the president, the Hon. Mr. Stephens opened the proceedings with prayer.

On motion, leave of absence was granted to Messrs. Scott of Feliciana and Penn.

Mr. Brent having voted in the majority, moved to reconsider the vote respect-

ing the eighth section of the article upon the general provisions, which motion prevailed, and said section was taken up, as follows:

SEC. 8. The legislature shall determine the duration of the several public offices, when such duration shall not have been fixed by this constitution; provided that such time shall never exceed four years except notaries public, whose time of office may be extended to seven years; and all civil officers, except the governor and judges of the supreme and district courts, shall be removeable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

Mr. WADSWORTH moved to amend said section by striking out in the fourth line, the words "provided that such duration shall never exceed four years."

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Claiborne, Conrad of Orleans, Eustis, Guion, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Wadsworth, Winchester and Winder voted in the affirmative—22 yeas; and

Messrs. Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Culbertson, Dunn, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the negative—28 nays.

Mr. MAYO then moved to amend said section, by strking out in the fifth and sixth lines the words "except notaries public, whose time of office may be extended to seven years;" which was adopted.

Mr. MAYO then moved for the adoption of the section as amended, viz:

SEC. 8. The legislature shall determine the duration of the several public officers, when such duration shall not have been fixed by this constitution; provided that such time shall never exceed four years; and all the civil officers, except the governor and judges of the supreme and district courts, shall be removeable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

The yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Claiborne, Covillion, Culbertson, Dunn, Guion, Humble, Hynson, Kenner, Labauve, Lewis, McRae, McCallop, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—36 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Conrad of Orleans, Eustis, King, Legendre, Marigny, Mazureau, Roman, St. Amand and Winchester voted in the negative—13 nays.

Mr. MARIGNY submitted the following, which was ordered to be spread upon the journals:

Communication of Mr. Marigny.

A few days ago I laid upon the desk a section to be inserted under the head of general provisions. The object of the section was to empower the legislature to extend the right of citizenship to persons of colored origin, whenever required by the public interest.

But public opinion being against the measure, and many of the members of the Convention who seemed to approve of it, having since expressed themselves against it, I am now satisfied that it would be rejected.

I believe it is my duty to withdraw it. I trust that the members of the Convention of the State at large will do me the justice to believe that my motives were pure; I thought that it was proper to grant to the legislature a power that it was not likely would be abused, and the exercise of which might, under certain circumstances, redound to the benefit of the State.

The house then took up the

ORDER OF THE DAY.

GENERAL PROVISIONS.

SEC. 9. Absence on the business of this State or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under this State, under the exceptions contained in this constitution.

Mr. GUION considered this section unne-

cessary, and it might operate to the prejudice of some of our citizens. It was useless to say that absence on the business of the State or of the United States should not forfeit citizenship, because, as a matter of course, a citizen representing the State abroad was not presumed to be divested of his right of citizenship by such service; and it might be understood that the reservation in favor of citizens abroad in the service of the State or of the United States divested such other citizens as were absent on pleasure or business of the right of citizenship. A native of the State might be disfranchised under the section, who happened to be abroad. If it was intended as a protection to those citizens who went abroad on public business, it was useless, and it could have no other tendency than to operate harshly towards other persons by the inference which might be drawn from it.

Mr. C. M. Conrad concurred in opinion, that it was unnecessary. By another section which has been adopted, it is prescribed that an absence of ninety days shall interrupt the acquisition of residence. The general law was against the present section. It was copied in the old constitution from the constitution of Kentucky, and had been retained by the committee probably becaure it was in the old constitution. It was useless, and he would rather see it left out.

Mr. Guion called for its rejection, and asked for the ayes and nays,

Messrs. Aubert, Claiborne, Conrad of Orleans, Guion, King, Legendre, Trist and Voorhies voted in the affirmative—8 yeas; and

Messrs. Benjamin, Bourg, Brent, Brazeale, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Culbertson, Dunn, Garrett, Humble, Hynson, Kenner, Labauve, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff, Winchester and Winder voted in the negative—40 nays; consequently said motion was lost, and the section was adopted.

Section tenth was taken up and adopted, viz:

Sec. 10. It shall be the duty of the general assembly to regulate by law, in what cases, and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

Section eleventh was taken up and adopted, viz:

Sec. 11. Returns of all elections for members of the general assembly shall be made to the secretary of state, for the time being.

Section twelfth was taken up, viz:

Sec. 12. The legislature shall point out the manner in which a person coming into the country shall declare his residence.

Mr. Brazeale thought this section useless. He moved to strike it out.

Mr. Brent expressed opposition to the section, on the ground that it conferred the power of making a registry law.

Mr. C. M. Conrad denied that it had such a tendency. Its only effect would be to prevent perjury. The inference of the delegate (Mr. Brent) was not authorised.

Mr. Brent repeated that it evidently was designed to favor a registry law.

Mr. Lewis said it was literally copied from the constitution of 1812, and in pursuance of it, the legislature passed an act in 1813. He had never heard any complaint about the operation of that law. As to whether it favored a registry law or not, that he conceived was not a matter of serious consideration. The question may well be left to the legislature. If the people desired to have a registry law, they should be left free to have it ordained, and if they were opposed to such a law, it was not to be presumed the legislature would pass it, and if it were passed by one legislature in opposition to the wishes of the people, it would be repealed by the next legislature.

Mr. Claiborne moved an amendment that the residence begin from the date of the declaration. The legislature may never pass a law, and persons may under color of the section, declare their residence a few days before the election for the purpose of voting. He considered the section useless without the amendment.

Mr. Lewis said he hoped the amendment would not prevail. It was out of place, and the section was better without it.

Mr. Preston advocated the rejection of the section. It was imperative, and required a declaration as a *sine que non*, be-

fore residence could be acquired. The legislature were bound under the solemnities of an oath, to observe the requirements of the constitution. Now, taking it for granted that the legislature will pass a law in conformity with the section, I contend that it will be imposing an unnecessary restriction. In no other State is such a condition demanded. People coming among us were used to nothing of the kind, and because they failed to observe this formality, they were to be denied the privilege of citizenship. It was true the section was found in the old constitution, and that the legislature had passed a law in obedience to its requirement. But its practice was considered so onerous, so repugnant to the spirit of liberty, that by common consent it has fallen into desuetude. Since the adoption of the old constitution, one-half of those that has come to the State and become citizens, had failed to observe this senseless formality. Not one half of the citizens had ever made this declaration. If the records of the parish court were examined, it would be found that in this populous city, not one thousand, not five hundred persons have made this declaration. Look at the north-western parishes, which are filling up so rapidly with population; you will not find one dozen persons who have made any declaration preparatory to becoming citizens. It may be considered then, as an obsolete form. I say nothing of the impolicy of such a restriction. But let us be as generous as our sister States, who require no such a condition from our citizens. Let us place no obstacles in the way of population. We want population for the development of our great resources; no man who by his industry contributes to the wealth of the State, should be compelled to hunt among musty records to show that he has made a declaration to become a citizen. Let us repudiate such a narrow-minded policy.

Mr. CLAIBORNE said he did not concur in opinion with the delegate from St. Landry (Mr. Lewis) as to his amendment being out of place; but, nevertheless, as it was manifest it would not be adopted, he would withdraw it, not to take up the time of the house, and inasmuch as a motion had been made to reject the section.

Mr. BRENT moved for the rejection of said section.

The yeas and nays being called for,

Messrs. Brazeale, Brent, Burton, Brumfield, Carriere, Humble, Hynson, King, McRae, Mayo, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—18 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Cenas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Culbertson, Dunn, Garrett, Guion, Kenner, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, Prudhomme, Pugh, Ratliff, Roman, St. Amand, Taylor of St. Landry, Wadsworth, Wikoff, Winchester and Winder voted in the negative—31 nays; consequently said motion was lost, and the section was adopted.

Section thirteenth was then taken up, viz:

SEC. 13. In all elections by the people, the vote shall be by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

Mr. PRESTON moved to amend said section, by striking out in the second line, the words "by ballot," and inserting the words "*viva voce*."

Mr. PRESTON said that his reason for making this motion was that the *viva voce* system was more conformable to republican government than the system of voting by ballot. The former system has been adopted in Virginia, the mother of States, and he doubted not it would work as well here as it had worked in Virginia. The only argument which he had ever heard against it was that it would expose the exercise of suffrage to a controlling influence. He thought this argument was a reproach to the people. There was not, in his opinion, a man who was ashamed of his vote. The people would be delighted at this open and independent mode of expressing their individual preferences and political predilections. In fact, as it is, the way a man votes is no secret. It is known to his friends and acquaintances, and is boldly declared. He did not think there was a man in Louisiana who could be subjected to any influence by voting openly. He had heard it said that a man might vote as he pleased, either by ballot, or *viva voce*, if it so suited him. The parish judges did not so construe it. He

knew instances where they refused to receive a *viva voce* vote and insisted upon a ballot.

The tendency of *viva voce* voting would be to make the people independent. But that would not be the only advantage.—There was another consideration. In contested elections it was impossible to identify the illegal ballots, and this difficulty rendered these contests almost useless, when the difference was only a few votes, for it was held by the courts that the way persons voted could not be inquired into. The consequence was that the contest had frequently to be referred to the people, and that occasioned great delay and great expense. If frauds were committed under the *viva voce* system, they could be detected, and the individuals guilty of them would be held up to popular reproach. The ballot box would be purified. He conceived his amendment was called for by sound considerations of public policy; it was in accordance with democratic institutions, and he hoped it would prevail.

Mr. Wadsworth said he designed to answer but one or two things which fell from the gentleman, (Mr. Preston) and he believed that was all that was necessary, to show that the grounds assumed by the delegate were fallacious. It was a pretty theory to say that man was independent of all influences; to pretend that the great mass were beyond the influence of wealth and beyond the power of wealth; but practically, it was ridiculous. It was essential to secure the independence of the mass of the voters, men who depended for their livelihood upon the employment they obtained from the rich, that they should have the privilege of voting, if they chose, by ballot. It was a wise and salutry provision. The great power of wealth is seen and felt every day; and if a loboring man cannot be allowed to put in his ballot according to the dictates of his conscience, without exposure to punishment, the result must be pernicous to the purity of our elections. If the gentleman from Jefferson (Mr. Preston) thinks it democratic that a man should be compelled to vote *viva voce*, his construction of democracy and mine are dissimilar. Democracy, I take it, is intended to put down the power of concentrated wealth; and hence its repugnance to banking, and other institutions which combine political influence. If a man is to get a loan from a bank, on account of a political vote he may give, or be removed from an employment, because he votes against his employer, or the party to which his employer belongs, you subject his independence to a doubtful ordeal. There is a struggle at once between his interests and his duty, and the calls of the former may stifle the voice of the latter.

But the gentleman says that the people will be proud to record their votes openly. There is nothing in the existing system that prevents a man from voting an open ticket, and if it be any pleasure, or if a man feels indifferent whether his vote be known or not, he may gratify his humor. It may be safely inferred that when a man votes with a folded ticket, he has his reasons for doing so, and these reasons are properly matters for his own reflection. It is sufficient he has voted, and the presumption is he has done his duty according to the dictates of his judgement.

Mr. Benjamin said he had made a calculation, by which it appeared that one hundred and thirty-eight officers had to be elected in the city alone. It was utterly impossible to get through with the elections in the city, by the *viva voce* system; and if he had no other objection, he should vote against it on the ground of its utter impracticability.

Mr. Porter said he was in favor of the *viva voce* system, but the remarks of the gentleman from New Orleans (Mr. Benjamin) had convinced him that the system would be difficult to practice, on account of the great number of officers to be elected, especially in the city.

The question was taken on Mr. Preston's proposition.

The yeas and nays being called for,

Messrs. Garrett, Humble, McRae, Prescott of St. Landry, Preston, Ratliff, Read, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the affirmative—11 yeas;

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Cenas, Chambliss, Claiborne, Chinn, Conrad of Orleans, Covillion, Culbertson, Dunn, Guion, Hynson, Kenner, King; Labauve, Legendre, Lewis, McCallop, Marigny, Mayo, Mazureau,

Porter, Prudhomme, Pugh, Roman, St. Amand, Scott of Baton Rouge, Stephens, Voorhies, Waddill, Wadsworth and Winchester voted in the negative—40 nays;

Mr. Boudousquie moved to strike out the words "by the senate and house of representatives."

Mr. Wadsworth objected to this amendment. He thought the members of the legislature should assume the responsibility of their votes.

The amendment was not put.

Mr. Chinn moved for the previous question, which motion prevailed.

On motion, the thirteenth section was adopted, viz:

Sec. 13. In all elections by the people the vote shall be by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

Section fourteenth was taken up and adopted, viz:

Sec. 14. No member of congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or any foreign power, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of trust or profit under the same.

Section fifteenth was taken up and adopted, viz:

Sec. 15. All laws that may be passed by the legislature, and the public records of this State, and the judicial and legislative written proceedings of the same, shall be promulgated, preserved and conducted in the language in which the constitution of the United States is written.

Section sixteenth was taken up and adopted, viz:

Sec. 16. The general assembly shall direct by law, how persons who are now, or may hereafter become securities for public officers, may be relieved or discharged on account of such securityship.

Section seventeenth was taken up and adopted, viz:

Sec. 17. No power of suspending the laws of this State shall be exercised, unless by the legislature or its authority.

Mr. Marigny called up the additional section submitted by him, viz:

Sec. 18. The secretary of the senate, and the clerk of the house of representatives, shall possess the French and English languages; and any member of the general assembly may address either house in the French or English language.

Mr. Marigny said that in a few years, it was reasonable to infer, that the French language would scarcely be heard in the halls of our legislature. Out of respect for the ancient population, he hoped the principle consecrated in the section would be adopted. It might happen, as in his own case, in this body, that some persons might be elected to the legislature who were not as familiar with the English as with the French, and they ought to have the privilege granted them of speaking in the language most familiar to them. It was but an act of courtesy, and an act of justice.

Mr. Wadsworth considered the section unnecessary, and that was his motive for opposing it. As to the right of a member to speak in any language he pleased, it was beyond all doubt. A member of the legislature might address the chair in Choctaw, but whether it would be available or not was another question.

Mr. Lewis said that in 1812, when the constitution was adopted, the English language was but little spoken. The large preponderance of the population were French, or of French origin, and if any thing of the kind had been necessary, it would have then struck the framers of the constitution. But what would be the practical effect of this section? It was to preclude the legislature forever, and without reference whether the circumstances made it necessary or not, from employing a clerk or secretary who did not understand the French language. As to the right of a member to be heard in whatever language was most familiar to him, there could not be a doubt. It was useless to assert that right in the constitution. A member might speak, if he chose, in German, but if the object of speech was to communicate one's thoughts, it was not to be presumed a man would speak in a language that was not understood. About one half of the members of this house speak the two languages. It was immaterial to him in what particular language a gentleman uttered his sentiments, whether in French or in English. His opposition to the section did not grow out of any repugnance to the French language; on the contrary he hoped

and trusted that the French language would be preserved. He confessed that the French language was not as much spoken in this body as the English; but this resulted from the fact that a large portion of the members did not understand the French —and those whose maternal tongue was French, spoke English so fluently as to induce them to express themselves in that language, as well to dispense with the tediousness of a translation, as because it was most generally understood.

He conceived the section, then, to be altogether, in the first place, unnecessary, and in the second place, he was averse to it, as trammelling the choice of the legislature, and coercing them in the matter of the election of their officers, of the qualifications of whom they were the proper judges. Thirty years experience has demonstrated that there is no disposition in the legislature to elect officers who are not familiar with the French as well as the English languages, and without doubt they will continue to act upon the same principle; at any rate, as long as the slightest necessity exists for it, and that was as long as they ought to act upon it, and as long as it would be acted upon, whether you cumber the constitution with this section or not.

M. Brazeale participated in the opinion that the section was unnecessary.

Mr. Chinn said that as distinct propositions were embraced in the section, with one of which he did not concur, he was under the necessity of voting against the section.

Mr. Marigny moved for the adoption of said section.

The yeas and nays being called for.

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Carriere, Conrad of Orleans Covillion, Kenner, King, Labauve, Legendre, McCallop, Marigny, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Scott of Baton Rouge, Trist, Voorhies, Waddill Wadsworth, Wederstrandt, and Winchester voted in the affirmative—26 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Dunn, Garrett, Guion, Humble, Hynson, Lewis, McRae, Mayo, Porter, Preston, Ratliff, Read, Stephens, Taylor of St. Landry and Wikoff voted in the negative—21 nays.

Mr. Guion said he had voted nay because he was opposed to the first part of the section. He had no objection to the latter part. He did not think it proper to trammel the legislature in the choice of its officers by defining their qualifications.

Mr. Porter said he did not think the evil would ever occur, which the gentleman from New Orleans (Mr. Marigny) wished to preclude, and therefore he had voted no.

Section nineteenth was taken up, viz:

Sec. 19. In all criminal prosecutions, the accused shall have the right of being heard by himself or counsel; of demanding the nature and cause of the accusation against him; of meeting the witnesses face to face; of having compulsory process for obtaining witnesses in his favor throughout the State, and prosecution by indictment or information; a speedy public trial, by an impartial jury of the vicinage; nor shall he be compelled to give evidence against himself.

Mr. Preston said that if this section were not modified, it would be followed by the most pernicious results. It would entail enormous expense upon the State, and criminals would avail themselves of the pretext of prolonging their trials, by averring that they had material witnesses in remote portions of the State and abroad. There was no wrong done in the present practice to persons who were accused; they were allowed the facility of getting the written depositions of witnesses who were not present. It would ruin and bankrupt the State, and besides, interfere, seriously, with the prompt execution of the criminal laws.

He would, therefore, propose to amend the section, by striking out, in the sixth line, the words "throughout the State."

Mr. Lewis said that the words which the delegate from Jefferson (Mr. Preston,) had moved to strike out, had been added to the section as it was found in the old constitution. The expediency of adding these words had been discussed in the committee, and after mature reflection, it was determined that they were proper and essential to a just administration of the criminal laws. If the motion to strike them out prevailed, the inconveniences now felt will continue to be exhibited. It was of the utmost importance that this right should be secured.

The liberty of the citizen was one of the most important objects of legislation, and any thing so essential to an impartial trial should not be denied. But it is objected that it will occasion considerable expense. This is to be deplored yet it is not an argument that will outweigh the considerations growing out of the reputation and liberty of the citizen. I cannot see that the remedy proposed by the delegate from Jefferson would be efficacious; I think it would be worse than the disease itself. To say that a person accused of crime shall not have the benefit of meeting the witnesses face to face, because it will entail expense, is one of the weakest arguments that could be adduced. As to the ground assumed, that the judge may order depositions to be taken abroad, and that it is the practice to refuse to let the prosecuting attorney go to trial without allowing the accused the benefit of such depositions, it is not entitled to any weight.

It is true, it is within the sound discretion of the judge to continue the trial in order to afford the prisoner the benefit of taking testimony, but if the prosecuting attorney has any spite or ill will against the prisoner, this authority in the judge affords no protection after all, for the accused may be kept in prison at the will of the prosecuting attorney for an indefinite period. The prisoner may be unable to give bail and this power to continue his trial; so far from affording relief, may be so abused as to be a ready means of oppression. To the honor of our prosecuting attornies it can be said that these things have rarely or never happened; but worse things have happened, and it behoves us to throw round the citizen, where his honor, his life or his reputation is involved, every possible protection. Practically, it will not be a matter of as much trouble and expense as has been anticipated. But in few instances, the witnesses will be found not to reside in and about the vicinity, where the offence is perpetrated. It may happen that a sojourner, a stranger passing through a place may be a witness to a crime, and the facility of procuring his presence ought to be given both to the State and to the party. It is true the right may be abused, that it may be employed to get delay, and when guilt exists and the punishment is great, the inducement to commit perjury may have a fatal tendency, yet it may happen on the other hand that an innocent man may find it indispensable to have the witnesses confronted with him, and that the affidavit may be honestly made to bring the witness within the jurisdiction of the court. In such a case should he be debarred the privilege, because it may be abused by a desperate culprit? It is better to submit to the inconvenience of allowing the guilty to avail themselves of the privilege, than that it should be denied to the innocent. These considerations brought my mind and a majority of the committee to the opinion that the proposition was judicious, and I trust a majority of this body will come to the same conclusion.

Mr. Garrett considered the clause unnecessary, inasmuch as it was a matter of pure legislation; he was therefore in favor of the motion to strike out.

The yeas and nays were called for on Mr. Preston's motion, and

Messrs. Bourg, Brent, Briant, Brumfield, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Covillion, Garrett, Humble, Hynson, Kenner, King, Labauve, Legendre, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff Read, Roman, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—38 yeas; and

Messrs. Aubert, Benjamin, Brazeale, Burton, Chambliss, Dunn, Guion, Lewis, McCallop, McRae, Marigny and Splane voted in the negative —12 nays.

On motion, the section as amended was adopted, viz:

In all criminal prosecutions, the accused shall have the right of being heard by himself or counsel; of demanding the nature and cause of the accusation against him; of meeting the witnesses face to face; of having compulsory process for obtaining witnesses in his favor, and prosecution by indictment or information; a speedy and public trial by an impartial jury of the vicinage; nor shall he be compelled to give evidence against himself.

Section twentieth was taken up and adopted, viz:

Sec. 20. All prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident or pre-

sumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

Section twenty-first was then taken up, viz:

Sec. 21. No *ex-post facto* law, nor any law impairing the obligation of contracts, shall be passed.

Mr. Conrad of New Orleans, moved to amend said section, by inserting the words "or vested rights be divested."

Mr. Benjamin moved to amend the amendment, by adding the words "unless for purposes of public utility, and for adequate compensation previously made;" which amendment was accepted by Mr. Conrad, and the amendment as amended, was adopted.

On motion the section as amended, was adopted, viz:

No *ex-post facto* law, nor any law impairing the obligation of contracts, shall be passed, nor vested rights be divested, unless for purposes of public utility and for adequate compensation previously made.

Section twenty-second was taken up and adopted, viz:

Sec. 22. Printing presses shall be free to every person who may undrtake to examine the proceedings of the legislature, or any branch of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluble rights of man, and every citizen may freely write, speak or print on any subject, being resposible for the abuse of that liberty.

Section twenty-third was taken up and adopted, viz:

Sec. 23. Emigration from the State shall not be prohibited.

Section twenty-fourth was taken up, viz:

Sec. 24. The first general assembly to be elected under this constitution, shall determine upon the place where the seat of government shall be permanently located, from and after the first day of January, id the year one thousand eight hundred ann fifty-one.

Mr. Claiborne hoped that this section would be adopted in place of the one that had been substituted for it. It contained the cool expression of the opinion of the Convention, while at Jackson, when they were free from that effervescence which had taken hold so unaccountably, of the minds of many in relation to the city.

Mr. Marigny moved for the adoption of the section. The yeas and nays being called for,

Messrs. Benjamin, Boudousquie, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Guion, King, Legendre, Marigny, Mazureau, Preston, Prudhomme, Roman, St. Amand, Soulé, Splane, Voorhies, Wadsworth and Winchester voted in the affirmative—21 yeas; and

Messrs. Aubert, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Chinn, Covillion, Dunn, Garrett, Humble, Kenner, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Pugh, Ratliff, Read, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—32 nays; consequently said motion was lost and the section was rejected.

Mr. Marigny gave notice that he would on Friday next, move to reconsider the vote rejecting the above section, and also the vote adopting the section removing the seat of government from the city of New Orleans.

On motion the twenty-fifth section was taken up, viz:

Sec. 25. The legislature shall not have power or authority to pledge the faith of the State as security for the payment of any bonds, bills, or other contracts or obligations whatever, nor to borrow money for any purpose whatever, except for defraying the expenses of war, or for the purpose of repelling an invasion of the State by an armed force, or for suppressing an insurrection.

Mr. Cenas moved to amend said section by adding to the same the following proviso, and the same was adopted, viz:

Provided, that the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilites, whether due or not; the said bonds, however, to bear upon their face, either in principal or interest, an amount less than the original obligations they are intended to replace.

Mr. Cenas said that this provision was so obviously to the interest of the State as to require no explanation.

Mr. Roman remarked, in relation to the section, that while it was judicious to put a stop to the mania which had prevailed in the legislature, to accumulate debts upon debts, it would be unwise to fall into the opposite extreme. This section interdicts all loans which are not designed for the exigencies which it has so explicitly defined. It would follow, as a matter of course, that if the State had not the funds necessary to meet a just debt, she would be estopped from making any arrangements by which these funds might be obtained. He did not believe that it was intended to stop the wheels of government, or to embarrass the State in meeting her just obligations. To avoid such a contingency, he would propose to add the following words to the section, "for a sum not exceeding two hundred and fifty thousand dollars in any one year;" that would be about one-half of the revenue of the State.

Mr. Lewis objected to this amendment. He said it would put us back where we were before. It would deprive us of the benefits designed by the section. If the legislature have this power they may borrow every year. Let our administration be a prudent one, and our expenditures will never exceed our receipts. The legislature will be unable to involve the State to an indefinite amount, when the power to borrow money is restricted to certain specified purposes. The object of the section is to prevent the legislature from getting the State in debt. There is no good reason why the State should be involved, unless it be for one of the contingencies provided for in the section. It will put an effectual check to such wild schemes as the Nashville rail road, and similar undertakings. If you open the floodgates, we shall be again submerged by extravagant and profligate appropriations of money. After the revulsion through which we have passed, it is not to be supposed that similar legislation will occur for some years to come, but if we wish to be placed beyond the possibility of its recurrence, we must apply a stringent restraint.

Mr. Roman said that the delegate from St. Landry (Mr. Lewis) had defended his position with a good deal of ability, but he did not think the gentleman had met the point involved. Are the wheels of government to be stopped, in order that we may avoid a state of things which we all deplore? It may be an effectual mode of purchasing their recurrence, but will not the remedy be as bad as the disease? I do not object to the section; but I wish it to be so expressed as not to impose an impracticable condition. Contingencies may happen that may make it indispensable that the State should have the power to raise money to meet her current expenses. So long as the collection of the revenue is made with fidelity, the accounts may be squared; but suppose that some half dozen sheriffs become defaulters, is the State to be precluded from borrowing money to meet the deficit? It is evident that you place the State in an embarrassing and humiliating position, if you deny to her the power of anticipating her revenues in other cases of emergency than those enumerated in the section.

Mr. Guion said he conceived that some other emergencies might arise, rendering it necessary that the State should have the power of borrowing money. If it be restricted to meeting the ordinary expenses of the government, he conceived it would obviate all objection.

Mr. Preston was opposed to granting the power to borrow money on ordinary occasions, because he considered it would be pernicious. The revenues of the State wisely administered should suffice to meet her current expenses. There were only extraordinary occasions when it would be necessary to raise an additional amount over the ordinary revenue, and when those occasions arose, the people would not be backward in sustaining the government.

Mr. Ratliff was opposed to the amendment. It appeared to him that it went further than the mover designed. The power of the legislature ought to be explicitly restrained in this matter of borrowing, or otherwise we shall be constantly exposed to lavish expenditures. The true principle ought to be, to pay as we go. The suggestion of the delegate from Jefferson (Mr. Preston) was a good one; that if there was any extraordinary occasion for money, over the revenues, that additional taxation be imposed to raise it. The people would be the judges of the necessity, and would hold their servants to a strict

accountability. There would be no way of shirking the responsibility and avoiding it when the elections came on.

The question was taken on Mr. Guion's amendment to insert after the word "insurrection," in the seventh line, the words "or for the payment of the ordinary expenses of the government, when there may be a deficiency in the annual revenue."

The yeas and nays being called for on the adoption of said amendment,

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Garrett, Guion, King, Labauve, Legendre, Lewis, Pugh, Roman, Roselius, St. Amand, Taylor of St. Landry and Winchester voted in the affirmative—21 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Garcia, Humble, Hynson, Kenner, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Soulé, Splane, Stephens, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—32 nays.

On motion, the section as amended, was adopted, viz:

Sec. 25. The legislature shall not have power or authority to pledge the faith of the State as security for the payment of any bonds, bills, other contracts or obligations whatever, nor to borrow money for any purpose whatever, except for defraying the expenses of war, or for the purpose of repelling an invasion of the State by an armed force, or of suppressing an insurrection.

Provided, That the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said new bonds, however, to bear upon their face, either in principal or interest, an amount less than the original obligations they are intended to replace.

Section twenty-sixth was taken up and adopted, viz:

Sec. 26. The legislature shall provide by law for a change of venue in civil and criminal cases.

Section twenty-seventh was taken up and adopted, viz:

Sec. 27. No lottery shall be authorized by this State, and the buying and selling of lottery tickets within the State shall be prohibited by law.

Section twenty-eighth was taken up and adopted, viz:

Sec. 28. No divorce shall be granted by the legislature of this State.

Section twenty-ninth was taken up, viz:

Sec, 29. Every law enacted by the legislature, shall embrace but one object, and that shall be expressed in the title.

Mr. C. M. Conrad said that while he admitted it was excessively inconvenient to lawyers to refer to particular laws, on account of their being accumulated under general titles, yet he conceived there were cases where laws under one title necessarily had to embrace several objects. The section, in his opinion, went too far, and would occasion much greater inconvenience than that which it was intended to remedy. It was very objectionable.

Mr. Lewis said that the object of the section was to remedy a very serious inconvenience. The titles of our laws were generally of a very indifferent character; and the words appended, "and for other purposes," were intended to cover a mass of heterogeneous propositions. It was impossible to find a particular statutory provision without wading through a long list of sections, the titles to which gave at best a most imperfect idea of what followed. It was the business of a whole life to penetrate and find out our laws. There was a total absence of order and system in their classification, and the evil was becoming greater and greater every year. Dispositions upon one subject were found appended to dispositions upon another subject, and where one would suppose it was the last place where they were to be found. A remedy, it was clear, ought to be provided, and the committee could suggest nothing better than this section.

The yeas and nays being called for on the motion to adopt said section,

Messrs. Aubert, Boubousquie, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Cénas, Clambliss, Claiborne, Covillion, Dunn, Eustis, Garcia, Guion, Humble, Hynson, Legendry, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, St. Amand, Scott of Baton Rouge, Stephens, Taylor of St. Landry,

Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Wikoff voted in the affirmative—41 yeas; and

Messrs. Benjamin, Briant, Conrad of Orleans, Conrad of Jefferson, Garrett, Kenner, King, Labauve, McCallop, Ratliff, Roman, Roselius, Soulé and Winchester voted in the negative—14 nays.

Mr. SOULE offered the following additional section:

No law shall be passed to raise money for any other purpose than to defray the expenses of the State, or for the payment of debts incurred for the maintenance of the government.

Mr. WADSWORTH suggested to add the following words, "or for promoting public education."

Mr. SOULE accepted the amendment.

Mr. ROSELIUS observed that the section did not provide for the existing debts of the State. He was certain that this omission did not arise from any intention on the part of his honorable friend to prove repudiation. He was sure that was not the object. The State was ultimately bound to pay in default of payment of the banks. If the section were to be adopted, he would propose to add the following words, "and to provide for the payment of the debts of the State."

Mr. GUION would ask the honorable mover for some explanations as to the design of the section. If it was intended to restrict the State from incurring further liabilities for the future, that has been provided for already.

Mr. SOULE said, I consider the power to levy taxes for any other object than to meet the expenses of the government, as existing no where. The question in my opinion has nothing to do with what are the actual debts of the State, and how they were contracted; and if I were to enter into the enquiry, I would nevertheless ask whether the legislature have the right to impose taxes for other purposes than to pay the legitimate debts of the State, and whether in the event of the legislature having contracted debts for which it had no authority, it could give validity to those obligations, and tax the people to pay them. I think (said Mr. Soulé) my views have been enunciated so as to be understood in this matter. I should certainly regret very much to see the State refuse to pay her just debts, but I can never consent that additional taxation be imposed to pay any other.

Mr. GUION would inquire of the gentleman whether in the event of the State becoming liable for the bonds issued for the property banks, or any portion of them, he would consider that the legislature had no right to raise the means to meet those obligations by taxation, if the ordinary means of the State were insufficient?

Mr. SOULE replied that he had made no such intimation.

Mr. GUION said that in that case, the section had no object, for the legislature has for the future been inhibited from contracting future liabilities, except in certain specified emergencies.

Mr. SOULE observed that it might be the opinion of the delegate (Mr. Guion) that the section was useless. I think differently. As for the past indebtedness of the State, we have no power over it. It is not our province to inquire whether it be valid or invalid. Our mission is limited to prescribing wholesome checks for the future, and profit by past experience; and among the most important objects is to preclude the possibility of our ever again being involved beyond what is necessary for the support of the government, which ought not to exceed our revenues, unless in the event of sudden calamities, it be necessary to make loans.

I have nothing in this matter concealed. My object is plain and straight-forward, and I willingly accept the amendment of my colleague (Mr. Roselius) since he thinks it necessary. The design I have is this, to put it beyond the power of the legislature to impose upon the industry of the people onerous and heavy burthens, the result of extravagant appropriations, and an improper use of the public credit. I would be the last one to destroy the guarantees of the State towards those to whom the State was justly liable. But, at the same time, I am equally reluctant that the legislature should have the power of imposing other taxes than are necessary to carry on the government and to pay its just debts.

Mr. ROSELIUS said that the State had issued her bonds in favor of the property banks. It is beneath the dignity of the State to raise the question, whether, under the existing constitution the legislature had

the right to authorize the emission of these bonds. This is not a question to be agitated, to be debated here. It is too late to raise such a question. The bonds have been issued and negotiated. The people have sanctioned their issue through their representatives and constituted authorities, and have acquiesced in it. To attempt to evade our indebtedness in any way, should it so happen that the State be called upon to meet these obligations, amounts to nothing less than repudiation, and if you take away and deny to the legislature the power to impose taxes for that purpose, you effectually repudiate. How can the State pay, if you say she shall not raise the means through taxation? If the legislature cannot call upon the citizens to contribute, it is an absurdity to say that you have no idea to deny the validity of the debt. You effectually make it impossible that it should be paid, and what is the difference between that, and saying at once, that the debt is invalid and that you will not pay it? Let us see if the section will bear the construction placed upon it.

[Mr. Roselius called upon the secretary to read the section.]

"To pay the debts incurred or to meet the current expenses of the government."

Does that confer the power to impose a tax to pay the existing debts of the State? But it is unnecessary to expatiate further to induce the house to reject the section. It can have no other bearing than to intimate that the State is not bound to take up her bonds, in the event of a failure to take them up on the part of those institutions in whose behalf they were issued. And this is a doctrine which I do not believe the gentleman himself, or any member of this house, can sanction.

Mr. Eustis remarked that this was a very important subject, and that it was better to postpone its consideration until another day, when the subject would properly come up in another portion of the constitution, and be then calmly decided.

Mr. Soule said it was clear to his mind that the design of his section had been totally misconceived. It was not intended, nor could not be intended to apply to what was past. It was designed only for the future. It was very clear that nothing we did here could effect any thing done under the old constitution. We had nothing to do with past legislation under that instrument, nor could we effect it. I certainly never had the remotest design to favor any thing which has been so strangely imputed to this section; and I am astonished that a gentleman of the high legal abilities of my respected colleague, could have put such a construction upon the section. I have declared the only object I had in view, the only object I could have in view, was to provide against the recurrence of evils which have been pointed out to us by sad experience. Assuredly, the section went no further. From what I have heard, to my utter astonishment, it seems that it is to give rise to a still further discussion, and as I have no idea of consuming the time of this body any longer with this matter, I will entreat gentlemen to repress their trepidation, and by withdrawing the section the alarming phantom that has conjured up the horrors of repudiation will disappear, and gentlemen's minds will be relieved from a most whimsical apprehension.

Section thirty was taken up and adopted as follows:

"Every law of a general nature, shall be equally applicable to all parts of the State."

Mr. Ratliff gave notice that he would move to-morrow, to reconsider the vote adopting the twenty-fourth section.

Whereupon, the Convention adjourned until to-morrow, at 9 o'clock, a. m.

Thursday, May 1, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Preston opened the proceedings with prayer.

The Hon. Mr. Du Bouchel, senatorial delegate from the county of Plaquemines, appeared and took his seat; and on motion the certificate of his election was referred to the committee on elections.

The President appointed Mr. Labauve a member of the committee on elections, to fill the vacancy occasioned by the death of Mr. Leonard.

Mr. Mayo moved to reconsider the vote adopting the 29th section. The yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Chinn, Culbertson, Dunn, Eustis, Garrett, Humble, Hynson, Kenner, King, Labauve, Le-

loux, Lewis, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff and Winder voted in the affirmative—39 yeas; and

Messrs. Aubert, Bourg, Carriere, Claiborne, Covillion, Legendre and Mazureau voted in the negative—7 nays. Said motion was carried, and the section was taken up, viz:

Sec. 29. Every law of a general nature shall be equally applicable to all parts of the State.

On motion of Mr. Mayo, said section was laid on the table subject to call.

This being the day fixed for the taking into consideration the reports of the committee of revision, the report of said committee on the seventh article was taken up, viz:

The committee of revision report the following:

(Signed,) G. EUSTIS,
Chairman.

April 14, 1845.

TITLE VIII.

MODE OF REVISING THE CONSTITUTION.

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 three-fifths of the members elected to each house and approved by the governor, such proposed amendment or amendments, shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published three months before the next general election, in at least one newspaper in French and English, in every parish in the State in which a newspaper shall be published; and if, in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same to be again published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if the people shall approve and ratify such amendment or amendments by a majority of the qualified voters of the State, such amendment or amendments shall become a part of the constitution: *Provided*, that if more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment, separately.

On motion, said article was adopted as reported by the committee.

Mr. Ratliff, agreeably to notice previously given, moved to reconsider the vote adopting said article seventh. The yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Culbertson, DuBouchel, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Splane, Stephens, Trist, Voorhies, Waddill and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Aubert, Boudousquie, Bourg, Cénas, Claiborne, Derbes, Dunn, Eustis, Garcia, Guion, Kenner, King, Legendre, Lewis, Marigny, Prudhomme, Pugh, Roman, St. Amand, Taylor of St. Landry, Wikoff and Winder voted in the negative—22 nays.

Mr. Guion raised a question of order, whether the motion for reconsideration could be considered as carried, as the number voting for the reconsideration was not greater than the number that voted for the section when it was carried, in conformity with the rule.

The President inquired of the secretary the date of the notice for reconsideration given by Mr. Ratliff.

By reference to the journal, it was found that the notice was given on the 18th of February.

The President decided that the rule relied upon by Mr. Guion was adopted on the 12th of April, and could not affect a notice given before its adoption.

Mr. Guion appealed from the decision of the Chair.

On the question, "shall the President's decision be maintained," the yeas and nays were called for, and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Cènas, Chambliss, Claiborne, Covillion, DuBouchel, Dunn, Eustis, Humble, Hynson, Ledoux, McCallop, McRae,

Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Stephens, Trist, Voorhies, Waddill, Wederstrandt and Winder—voted in the affirmative—31 yeas, and

Messrs. Aubert, Boudousquie, Bourg, Briant, Chinn, Culbertson, Derbes, Garcia. Garrett, Guion, Kenner, King, Legendre, Lewis, Prudhomme, Pugh, Roman, St. Amand, Taylor of St. Landry, Wadsworth, Wikoff and Winchester voted in the negative—22 nays; consequently the decision of the chair was sustained.

Mr. Ratliff then moved to amend said article by inserting in the fourth and fifth lines the words "a majority" instead of "three-fifths," and to insert in the eighteenth line "three-fifths," instead of "a majority."

Mr. Lewis said he wished the constitution to be so placed that it would be within the power of the people to amend it, when experience should point out the necessity for any change. He thought that to transpose the words of the article as proposed by the delegate from West Feliciana (Mr. Ratliff) would make amendments to the constitution much more difficult. One man might defeat them. If three-fifths of each house should not concur after the amendments were suggested, they would be defeated. There ought to be in the first place, a decided majority of the legislature to propose the amendments, otherwise if a bare majority be only required, they will be proposed for the mere purpose of agitation. There should be a decided expression, not an uncertain and doubtful expression for change, and when such an expression is given, it should not be in the power of a minority of the people to defeat the wishes of the majority of the people. The article he conceived to be infinitely preferable as it was, and he hoped the amendment would not prevail.

Mr. Marigny considered this amendment as most important, as changing very materially the whole character and bearing of the section. If it prevailed, the result would be constant turmoil and excitement. Every succeeding legislature would propose amendments to the people, it would give an opportunity for ambition to display itself, and certain individuals would not lose the opportunity of manufacturing political capital. Already have we heard in this body, that this constitution, is not yet sufficiently democratic. There are already the seeds of enough excitement, and perturbation in it. We have an election for almost every thing, from a sheriff down to an inspector of pork! It would be exceedingly injudicious to adopt this amendment. Let us have something like consistency snd stability, and let us avoid giving occasion to perpetual changes and innovations. We have had the exposure of the difficulties of making a constitution. Let us beware of new projects which are not wisely examined and deeply pondered. Let us profit by the example of Madison, Jefferson and Monroe, and not imagine that this body concentrates greater talents than has been found in other conventions. He hoped the amendment would be rejected.

Mr. Ratliff said he hoped his amendment would be adopted. He considered the objections that were urged as without force. If a majority of the members of both houses were to propose amendments to the constitution, it would be only a suggestion to the people, but it would give the people the control of the question. They would decide whether these amendments were proper or not, and if deemed expedient, they would make their elections in reference thereto. It would be the popular will that would determine the question, but if you leave the section as it is, it will be in the power of a few persons to preclude the possibility that the people should be consulted, and without their being consulted, provisions in the constitution, objectionable to the mass of the people, will remain in full force. Certainly, the majority of the people should not be placed in that position, as to be debarred from amending the constitution, when experience should convince them that amendments were necessary. We know with what extreme difficulty amendments to the existing constitution have been effected, how often the will and expectations of the people have been disappointed, and yet for years, had the people been consulted, they would have resolved the question in favor of amending the constitution. The people are omnipotent and should have control of this question. If a majority of their representatives, reflecting their will, consider it expedient that amendments should be made, give them the facility of consulting the people, but do not require for this initiatory pro-

ceeding, a difficult, if not an impossible majority.

Mr. Brent said that he could not conceive on what just principle this amendment could be resisted. It cannot be the intention of the gentlemen to assert that the constitution of the State is to be placed beyond the will of the majority. If the amendment prevails surely there are yet sufficient checks against any haste or improvident action. It will require two votes of the legislature and one of the people before amendments can be embodied in the constitution. What more would gentlemen have? Do they wish to put it effectually out of the power of the people to amend the constitution, no matter what may be the necessities and exigencies for amending it? Do they wish to place the constitution beyond the control of the people? Are the people forever to be distrusted, and to be regarded with fear and suspicion? It does seem that tyranny and despotism are still favorite doctines even in this republican government. On what grounds can this amendment be opposed? It can only be from a distrust of the people; I must confess I entertain no such distrust.

Mr. Wadsworth said he had no disposition to flatter the people. He had as high a conception of their integrity and intelligence, and as great a respect for their rights and privileges as the delegate from Rapides (Mr. Brent,) or any member upon this floor. He did not think it argued any want of confidence in the people, to ensure some degree of stability and consistency to the established institutions of the country. This was a matter that would meet the concurrence of cool and dispassionate judgment. It was not the people he feared, but it was demagogues, who were never satisfied without popular excitement.

The gentleman has asked me, continued Mr. Wadsworth, to give him a reason, why the constitution should not be placed at the whim and caprice of a temporary majority? I will tell him why. It is because the constitution is not made alone for the majority, it is made to protect the minority, the majority can very well take care of themselves. But the minority must be protected—they must be guaranteed against the ebulitions and outbreaks of majorities. There must be a limit to the will of the majority. They may go so far but no farther. The doctrine that majorities can do no wrong, and that they may substitute at their will and pleasure their say-so as the irrevocable law of the land, without consulting the minority, is one of the most aristocratic notions that can be conceived. The gentleman has asked for a reason, and I have given it!

Mr. Lewis moved for a division of the question, first to proceed to strike out.

The yeas and nays being called for on the motion to strike out,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Chambliss, Covillion, Du-Bouchel, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Stephens, Trist, Waddill and Wederstandt voted in the affirmative—24 yeas; and

Messrs. Aubert, Boudousquie, Bourg, Carriere, Cénas, Chinn, Claiborne, Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Kenner, King, Legendre, Lewis, Marigny, Prudhomme, Roman, St. Amand, Taylor of St. Landry, Wadsworth, Wikoff and Winchester voted in the negative—25 nays; consequently said motion was lost.

Mr. Kenner moved for the previous question, which motion prevailed.

On motion, the seventh article was readopted.

Mr. Lewis, on behalf of the committee on elections, reported that Mr. Victor Du-Bouchel was duly elected senatorial delegate for the county of Plaquemines.

Mr. Roman having voted in the majority, moved to reconsider the vote adopting the eighteenth section, which motion prevailed, and the said section was taken up, viz:

Sec. 18. In all criminal prosecutions the accused shall have the right of being heard by himself or counsel, of demanding the nature and cause of the accusation against him, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor, and prosecution by indictment or information; a speedy public trial by an impartial jury of the vicinage, nor shall he be compelled to give evidence against himself.

Mr. Eustis moved to amend said section by inserting after the words "against him," in the fourth line, the words "and unless

he shall have fled from justice." Which amendment was adopted.

On motion, the section as amended was adopted, viz:

SEC. 18. In all criminal prosecutions the accused shall have the right of being heard by himself or counsel, of demanding the nature and cause of the accusation against him, and, unless he shall have fled from justice, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor, and prosecution by indictment or information; a speedy public trial by an impartial jury of the vicinage, nor shall he be compelled to give evidence against himself.

Mr. ROMAN submitted the following additional section, and the same was laid on the table subject to call, viz:

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, (except in cases of war, to repel invasion and supress insurrection,) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means by taxation for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall not be repealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

Mr. CHINN offered the following additional sections, which were laid on the table subject to call, viz:

SEC. —— Any person who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or receive a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as a second, or aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit under this constitution.

SEC. —. "I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of this State; and I do furthersolemnly swear (or affirm) that since the adoption of this constitution I have not fought a duel with deadly weadons, within this State nor out of it, nor have I sent a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending—So help me God.

Section thirtieth was taken up, viz:

SEC. 30. No law shall be revised or amended by reference to its title; but in such case the act revised or section amended shall be re-enacted and published at length.

Mr. HUMBLE moved for the adoption of this section.

Mr. RATLIFF had a few words to say. He would suggest to the house the great difficulty which would attend an adherence to this section. He would give an example: There was the militia law, which contained one hundred and sixteen sections. Now, if it were necessary to amend one single section, it would be necessary to re-enact the whole law, of one hundred and sixteen sections, as if it were a new law. This would be the result whenever a clause in the law would be amended, and thus this single law, besides consuming the time of the house, would in a short time, of itself, make a volume. It would lead to great inconvenience to adopt the section.

Mr. MAYO said if the section were adopted, it would extend further than was contemplated by gentlemen who favored it. If any article of the civil code or code of practice were amended, all the articles under the title to which it belonged, would have to be re-enacted and published.

Mr. LEWIS said that the object of this section was to cure a state of utter confusion in our laws. The matter had been well weighed be the committee, and they were convinced that something should be done to remedy the inconvenience that was felt, and which, if not arrested, would be a source of the greatest doubt and perplexity. As prosecuting attorney, at one time, he had more partiularly felt the great inconvenience. It was a task of great difficulty to find particular provisions. They

were so mixed up, and were found embodied under so many different and imperfect titles, it was a matter of great annoyance, of great trouble, and of extreme doubt to find out the actual state of our laws, as modified by the numerous amendments made to them from time to time, and which were introduced under the most indefinite form, and placed along with dispositions of dissimilar character.

Mr. C. M. Conrad said he understood the gentleman's object, but he thought it one of no great magnitude. It was a matter involving the convenience of lawyers, and he did not think that this consideration should be sufficient to induce us to entail very heavy expense and a great deal of trouble upon the legislature. The great multiplicity of amendments shows that this plan would swell the volume containing our statutes to an enormous size. The section says "the act revised, or section amended shall be re-enacted and republished." Which is it, the section amended or the entire act, that is to be re-enacted and republished? There is here some ambiguity. The same inconvenience attends the publication of the laws of congress. If the detached section be alone published, that will give but an indefinite idea of the character of the whole act; and if the whole act is to be republished, the enormous expense will be a most serious objection. It is better to leave things as they are. When our community gets older and more settled, our laws will become fewer, and a remedy will readily be provided for the inconvenience now felt.

Mr. Eustis said that the reform proposed by the section was imperiously called for, as well by the confused state in which our statutues were, as by public opinion. There would would be nothing more vicious than to amend laws by an indefinite reference to their titles. It gave a great deal of trouble, and it was a matter of much perplexity to find out what were the changes and modifications made to our existing statutes. The greater part were written in a language which was neither French nor English. The references were in many instances totally unintelligible. The design was that laws should be intelligible, and that they should be of ready reference. People were liable to prosecution for violating them. Such a subject was surely not trivial, or unworthy of our attention. On the contrary; said Mr. E. I think it a matter of great importance.

The gentleman who has just taken his seat, cites the acts of congress as obnoxious to the same objection. It is no reason why we should not seek for greater order and system because there is none in the laws of congress. It is very true that there is a great want of order and much confusion in those laws, but that is to be deplored. We have a precedent for our guide, in the Napoleon code. Some of our sister States are introducing regularity and order in arranging their statutes. The legislature of Massachusetts have been engaged a whole session to place their statutes in a form similar to the body of our civil laws. In France the laws are admirably arranged. If we wish to preserve our statutes from a total chaos, we must adopt something in the nature of the section before us.

Mr. Conrad of Orleans, moved that said section be laid on the table indefinitely.

Mr. Lewis moved to amend said section by inserting after the word "section," in the third line, the words "or article," and by inserting in the first and second lines the word "revived" instead of the word "revised;" which amendments were adopted.

Mr. Conrad of Orleans, moved that said section and amendment be laid on the table indefinitely. The yeas and nays being called for,

Messrs. Boudousquie, Chinn, Conrad of Orleans, Covillion and Ratliff voted in the affirmative—5 yeas; and

Messrs. Benjamin, Bourg, Brent, Brazeale, Briant, Bumfield, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Jefferson, Culbertson, Derbes, DuBouchel, Dunn, Eustis, Garcia, Garrett, Guion, Humble, Hynson, Kenner, Ledoux, Legendre, Rewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Pugh, Read, Roman, St. Amand, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the negative—51 nays; consequently said motion was lost.

On motion, the section as amended was adopted, viz:

Sec. 30. No law shall be revised or amended by reference to its title; but in such case the act revised, or section or article amended, shall be re-enacted and published at length.

Section thirty-first was taken up and adopted, viz:

Sec. 31. The State shall not become subscriber to the stock of any corporation or joint stock company.

Section thirty-two was then taken up, as follows:

Sec. 32. No person shall hold or exercise, at the same time, more than one civil office in this State, except one of such offices be that of a justice of the peace.

Mr. Eustis moved to amend said section by inserting after the words "civil office," in the second line, the words "of emolument," which amendment was adopted.

On motion, the section as amended was adopted.

Section thirty-third was taken up, viz:

Sec. 33. No corporate body shall be hereafter created, renewed or extended with banking or discounting privileges, without six months previous public notice of the intended application for the same, in such manner as shall be prescribed by law; nor shall any charter for the purposes aforesaid be granted for a longer period than twenty years, and every such charter shall contain a clause reserving to the legislature the power to alter, revoke or annul the same whenever, in their opinion, it may be expedient so to do; and every charter so granted shall be upon the express condition that the share holders or members of such corporations, shall be bound severally and *in solido*, for all the liabilities and acts of such corporation, and for the consequences resulting therefrom.

Mr. Kenner moved that said section be acted upon paragraph by paragraph, which motion prevailed.

Mr. Brent moved to amend said section by striking out from the word "privileges," in the third line, the balance of the section, viz:

Without six months' previous public notice of the intended application for the same, in such manner as shall be prescribed by law; nor shall any charter, for the purposes aforesaid, be granted for a longer period than twenty years; and every such charter shall contain a clause reserving to the legislature the power to alter, revoke or annul the same, whenever, in their opinion, it may be expedient so to do; and every charter so granted shall be upon the express condition that the share holders or members of such corporation, shall be bound personally and *in solido*, for all the liabilities and acts of such corporation, and for the consequences resulting therefrom.

Mr. Lewis said he had moved to strike out this portion of the section in the committee, but was overruled. He hoped the motion would prevail here. It met his hearty concurrence. He was *in toto* an anti-bank man.

Mr. Conrad begged leave to assign the reasons of his vote. He had never been an advocate of the State-bank system. He had never voted for a bank charter, and doubted much whether he could, under any circumstances, be induced to vote for one. He had always thought there should be but one bank in the country, and that was a bank of the United States; but he did not believe that it was competent for any one State to bring about this salutary reform. What would it avail the State of Louisiana to prohibit the incorporation of banks within her limits, if the other States, particularly the adjoining States, should not imitate her example? Was not all experience shown that where a people are habituated to a paper currency, if they cannot have one of their own they will use that of other countries? The consequence is, that if we prohibit the establishment of banks, our State will be flooded with the paper of the banks of other States, over which we can exercise no control, and thus we will be made to share their losses without being able to participate in their profits.

We would go as far as any one in restricting the legislature in the power to incorporate banks, and to prevent the deplorable mischiefs which have resulted from the abuse of that power, but to deprive them of it entirely was farther than he was prepared to go.

Mr. Winder said he was in favor of restricting the legislature in the exercise of the power, but he doubted the policy of taking it away altogether.

The yeas and nays being called for, on

the motion of Mr. Brent to strike out,

Messrs. Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, DuBouchel, Eustis, Garcia, Garrett, Humble, Kenner, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Mauzreau, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, St. Amand, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—38 yeas; and

Messrs. Aubert, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hynson, King, Legendre, Pugh, Roman, Trist, Winchester and Winder voted in the negative—19 nays.

Mr. Kenner then moved to fill the blank with the following amendment, viz:

"And should any person circulate, or cause to be circulated, any paper money issued by any corporation or person existing in any other State or county, he shall be considered guilty of a misdemeanor, and for such offence shall be amenable to such penalties as the legislature may determine."

Mr. Kenner said, in good faith and in sincerity, he had voted in favor of denying to the legislature the power to establish banking corporations. But this was not sufficient. It was an act of folly, and it might be considered an act of insincerity, to prohibit our legislature from creating banks, if we were to take no measures to preclude our being flooded by the paper of irresponsible banks elsewhere. It was a very easy matter for an association to be formed in this city, and to have their bank notes struck off in Natchez and sent here for circulation. This would be much worse than the evil of local banking corporations amenable to our laws, and it would inevitably result, unless we provided an effectual remedy. If we are to put down banking, let us put it down effectually, and let us return to the good old system of hard money.

Mr. Voorhies moved to lay Mr. Kenner's proposition on the table.

Mr. Kenner called for the yeas and nays on Mr. Voorhies' motion,

Messrs. Benjamin, Brazeale, Brent, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Eustis, Humble, Ledoux, Lewis, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Roman, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Voorhies and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Aubert, Bourg, Brumfield, Chinn, Culbertson, Derbes, Du Bouchel, Dunn, Garcia, Garrett, Guion, Hynson, Kenner, King, Legendre, McCallop, Marigny, Mazureau, Pugh, St. Amand, Trist, Waddill, Wikoff, Winchester and Winder voted in the negative—25 nays.

Mr. Kenner would enquire from those that were better informed, if an association could not be got up in this city, assuming to act as the bank of Kentucky, under a charter of the State of Kentucky, and circulate the notes of such an institution, receive them on deposit and pay them out? If this were not possible, he should say nothing more. But if it were, he would again submit it to gentlemen whether they should not protect the State from the evils of banking in other States, as well as from the evils of local banks.

Mr. Mayo moved for the adoption of the section as amended, viz:

Sec. 33. No corporate body shall be hereafter created, renewed or extended, with discounting privileges.

The yeas and nays being called for,

Messrs. Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, DuBouchel, Eustis, Garcia, Garrett, Humble, Kenner, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—37 yeas; and

Messrs. Aubert, Cénas, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hynson, Legendre, Mazureau, Pugh, Roman, St. Amand, Trist, Winchester and Winder voted in the negative—18 nays.

Section thirty-fourth was taken up, viz:

Sec. 34. All charters hereafter granted by the legislature, shall terminate on the first day of January, in the year one thousand eight hundred and ninety, where no certain limit has been fixed in the act of

incorporation; and no corporate privileges hereafter to be created, shall ever endure for a longer term than twenty-five years; provided that this section shall not apply to political or municipal corporations.

Mr. MARIGNY moved to amend said section by striking out the words "and no corporate privileges, hereafter to be enacted, shall ever endure for a longer term than twenty-five years."

On motion of Mr. CENAS, said section and amendment were laid on the table subject to call.

Mr. CLAIBORNE submitted the following additional section, and the same was laid on the table subject to call, viz:

"It shall be the duty of the legislature to define and limit in the charters of all municipal or city corporations, the power of levying taxes on property, and of creating debts by such corporations, and to confine such power, as nearly as possible, to purposes of municipal administration and police."

Section thirty-fifth was taken up, viz:

SEC. 35. The general assembly shall never grant any exclusive privilege or monopoly, in such form as to prevent any subsequent legislature from granting similar privileges to other individuals or corporations.

Mr. BENJAMIN moved to amend the section by so modifying it as to empower the legislature to grant a monopoly for a term of years.

Mr. Benjamin said that it was frequently necessary, in order to induce persons to engage in new enterprise of great public utility, to endow them with exclusive privileges for a certain number of years. Without such an inducement, capital would not be invested in such enterprises. Mr. B. instanced the water works, the gas works, and similar undertakings. He was opposed to monopolies, except they were of this description, and called for the public interest and convenience.

Mr. BRENT moved to amend said section by inserting after the word "monopoly," in the second line, the words "for a longer period than fifteen years," and to strike out the remainder of the section.

Mr. BENJAMIN moved to amend the amendment of Mr. Brent, by inserting "twenty" instead of "fifteen," which amendment was adopted.

On motion, the section as amended was adopted, viz:

SEC. 35. The general assembly shall never grant any exclusive privilege or monopoly for a longer period than twenty years.

Mr. RATLIFF submitted the following additional section, and the same was adopted, viz:

"The legislature shall direct by law in what manner, and in what courts, suits may be brought against the State."

Mr. EUSTIS, of the committee on education, submitted the following, viz:

An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the medical college of Louisiana as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government.

Section thirty-sixth was taken up, viz:

SEC. 36. Slaves shall be forever held and considered as immovable, and shall be regulated by the same laws as other immovable property.

On motion of Mr. BENJAMIN, said section was laid on the table indefinitely.

Mr. RATLIFF submitted the following additional section, viz:

The relation of master and slave in this State shall not be abolished, unless a bill so to abolish the same shall be passed by a unanimous vote of the members of each branch of the general assembly, and shall be published at least three months before a new election of members to the general assembly, and shall be confirmed by a unanimous vote of the members of each branch of the general assembly at the next regular constitutional session after such new election; nor then, without full compensation to the master for the property of which he has been thereby deprived.

Mr. BENJAMIN moved for the previous question, which motion prevailed.

Mr. GUION moved to lay said section on the table indefinitely, and called for the yeas and nays, which resulted as follows:

Messrs. Aubert, Benjamin, Bourg, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Conrad of Orleans, Conrad of

Jefferson, Culbertson, Dunn, Derbes, Eustis, Garcia, Garrett, Guion, Humble, Kenner, King, Ledoux, Lewis, Legendre, McCallop, McRae, Marigny, Mayo, Peets, Prescott of St. Landry, Pugh, Scott of Baton Rouge, Splane, Stephens, Trist, Waddill and Winder voted in the affirmative—38 yeas; and

Measrs. Boudousquie, Brazeale, Covillion, Claiborne, DuBouchel, Hynson, Porter, Prudhomme, Ratliff, Read, Roman, St. Amand, Voorhies, Wederstrandt and Winchester voted in the negative—15 nays; consequently said motion was carried.

Mr. Lewis submitted the following additional section, viz:

All officers of this State appointed by the governor and senate, or elected by the people, shall be required to understand the French and English languages, so as to transact the business of their offices in either language.

Mr. Marigny moved that said section be laid on the table indefinitely.

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Brazeale, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Dunn, Eustis, Garcia, Garrett, Guion, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge, Stephens, Trist, Wederstrandt, Winchester and Winder voted in the affirmative—46 yeas; and

Messrs. Bourg, Brent, Brumfield, Lewis, Prescott of St. Landry, Splane, Voorhies and Waddill voted in the negative.—8 nays.

Mr. Lewis gave notice that he would move to reconsider the vote adopting the section which requires that the clerk of the house and secretary of the senate shall be possessed of the French as well as the English language.

Mr. Sellers introduced a section relative to the imposition of a poll tax as a qualification for suffrage, which

On motion of Mr. Benjamin, was laid on the table subject to call.

Mr. Eustis observed that the twenty-third section of the general provisions in the old constitution, had been omitted in the report of the committee. He would submit it to the Convention and ask for its adoption.

Sec. 23. The citizens of the town of New Orleans shall have the right of appointing the several public officers necessary for the administration and the police of the said city, pursuant to the mode of election which shall be prescribed by the legislature; provided that the mayor and recorder be ineligible to a seat in the general assembly.

Mr. Lewis said he should like to hear some good reason why the city should not be placed upon a perfect equality, in relation to these matters, with the country. He would ask the honorable mover to exhibit some necessity for the adoption of this section.

Mr. Eustis said he could only say in reply, that the necessities of the case were so pressing, and the propriety of the proposition so plain, that it admitted of no dispute. Thirty years ago it was deemed essential that the citizens of New Orleans should be possessed of this power, and the necessity now for its existence was ten fold greater than at that time. The same investure of power, in criminal matters, is only granted to the mayor and recorders that are attributed to justices of the peace. It is indispensible that they should possess these powers for the prevention and repression of crime. In a densely populated city, there was a large class who arose in the morning without knowing where they were to sleep at night, or how they were to satisfy the cravings of hunger. The tendency of this class were to fall into crimes, into pauperism, and into vagabondism. It was absolutely necessary that the city authorities should have the power of imposing such temporary punishments as the interests of society demanded. If the honorable delegate can suggest any thing better to facilitate the police of the city, and to preserve its order and quiet, I should be pleased to hear it. I cannot conceive that any thing like sectional feeling can enter into this question.

Mr. Lewis said he had no objection to the adoption of the section.

The section was adopted.

Mr. Ratliff moved to reconsider the

vote adopting the twenty-fourth section, which motion prevailed, and the said section was taken up, viz:

Sec. 24. The legislature shall not have power or authority to pledge the faith of the State, as security for the payment of any bonds, bills, or other contracts or obligations whatever; nor to borrow money for any purposes whatever, except for defraying the expenses of war, or for the purpose of repelling an invasion of the State by an armed force, or of suppressing an insurrection; provided, that the State shall have the right to issue new bonds in payment of any of its now outstanding obligations or liabilities, whether due or not; the said new bonds, however, to bear upon their face, either in principal or interest, an amount less than the original obligation they are intended to replace.

On motion of Mr. Eustis said section was laid on the table subject to call.

Section thirty-seventh was taken up and adopted, as follows:

Sec. 37. All commissions shall be in the name and by the authority of the State of Louisiana, sealed with the State seal and signed by the governor.

Mr. Garrett offered the following additional section, and the same was adopted:

"The legislature may provide by law in what cases officers shall continue to perform the duties of their offices until their successors shall be inducted into office."

Mr. Garrett submitted the following as an additional section:

"All property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained by law. No species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value, and subject to taxation."

Mr. Conrad of New Orleans submitted the following:

"Taxation shall be equal and uniform throughout the State."

On motion, the proposition of Mr. Garrett and the proposition of Mr. Conrad were laid on the table, subject to call.

Section thirty-eighth was taken up and adopted:

Sec. 38. The constitution and laws of this State shall be published in the French as well as the English language.

Whereupon the Convention adjourned.

Friday, May 2, 1845.

The Convention met pursuant to adjournment.

The Hon. Mr. Stephens opened the proceedings with prayer.

The Convention took action for the enroling of the new constitution.

Mr. Voorhies called up the following resolution:

"Persons of unsound mind, paupers, non-commissioned officers, soldiers, marines in the service of the United States, and all persons convicted of any crime deemed at law to be felony, shall not exercise the right of suffrage."

Mr. Voorhies observed that if the section were adopted, it could be referred to the committee on revision, to put it in proper form and assign it its proper place. It was important, he conceived, to embody it in the constitution, in order that the restictions to suffrage be clearly defined. As to the utility of this provision, it was apparent on its face. No one would contend that these classes of persons were entitled to suffrage. It was manifest that they ought to be excluded from that right. The right of suffrage should be limited to active citizens. In reference to soldiers and sailors in the service of the United States, they could not be considered permanent citizens, and as having any real interest in the affairs of the State. The section was taken from the constitution of Virginia, and was to be found embodied in the constitutions of several other States. He would call for its adoption.

Mr. Eustis thought the expression "unsound mind" too general. In times of high excitement, the voters of political parties would accuse each other reciprocally of unsound mind. Who was to decide? The commissioners of election? They would be influenced by like political feelings, and an election might be arrested, and great disorders prevail, arising out of this question of sanity. A man may deem another that differs with him in opinion insane. The only legal test of insanity is interdiction. It would be a dangerous prerogative to authorize a commissioner of election to disfranchize a voter on the plea of insanity. As to the use of the word "pauper," intended to designate a class to be excluded, I would merely observe (said Mr. E.) that there is no such class of per-

sons known to our laws, and that, therefore, it can have no application.

Mr. VOORHIES replied that the expression "of unsound mind" was a technical expression, and to be met with in the civil code. It was embodied in our jurisprudence. But in addition to that, the very same expression was used in a similar section in the constitution of Virginia. The framers of the constitution of Virginia found no difficulty in construing the meaning of the term, and they were certainly as intellegent as the members of this body. It was very plain to understand it: it obviously meant a person bereft of reason. Now, as to limiting the restriction to persons under interdiction, that would not attain the object. Those only were placed under interdiction who had property to manage; other insane persons were not, because there was no motive why a decree of insanity should be pronounced against them. It was very evident that if the term insane persons under interdiction were used, it would apply to a very limited number of those who were bereft of reason. As to the other objection of the gentleman (Mr. Eustis) he would simply remark that the term "pauper" was well understood and defined. If there were no paupers in the State at present, it would have no immediate application; but doubtless it would become highly essential hereafter that the exclusion should be found to exist.

Mr. CLAIBORNE considered the section highly judicious, and hoped it would not be rejected. It was proper that the Convention should exclude the class of persons referred to from suffrage. If there were no paupers in Louisiana, in the sense in which the word was understood in England, at present, there was too much reason to apprehend that hereafter we should not enjoy the exception. The right of suffrage was too important to be vested in persons who were devoid of the most essential qualifications to its exercise.

Mr. MAYO said that the power conferred in the fourth section of the general provisions was amply sufficient, and rendered this section superrogary. It was better to leave such matters to the discretion of the legislature. They would prescribe such provisions as were necessary for the exercise of suffrage, and it was better to leave to them the full control. Our action was irrevocable, and we might do something that might hereafter be a source of great inconvenience. It might happen that the soldier or marine disqualified from suffrage was a native born citizen of the State. Would it be right to say that he should not vote because he was in the service of his country? An inflexible rule might work great detriment, and no immediate remedy would be at hand.

Mr. CHINN proposed to amend by striking out "of unsound mind," and substituting "persons under interdiction," and to strike out all after the word "interdiction."

Mr. VOORHIES objected to the amendment offered by the delegate from West Baton Rouge (Mr. Chinn) upon the grounds he had before assumed, that it would have only a partial application. As for the objection of the gentleman from Catahoula, (Mr. Mayo) that it might happen that the soldier or marine excluced, was a native of the State, I will observe that if it were so to happen, it would not affect the principle: for a native of Louisian enroling as a soldier, and subject to be sent from one part of the country to the other, and to be under the orders of his officers, ought just as much to loose the privilege of suffrage as any other citizen. The motive for exclusion would be the same. I am, at any rate, much amazed that this objection should come from that gentleman, inasmuch as on another occasion he offered a section containing precisely the same exclusion, applied to the very same persons.

Mr. CLAIBORNE begged to submit as a substitute, the gentleman's (Mr. Mayo's) own proposition. It was identically the same thing in meaning. It was found in a report drawn up by that gentleman and signed by several others, with a strong recommendation.

Mr. TAYLOR of Assumption suggested that it would be but carrying out the principle to embrace commissioned officers as well as non-commissioned officers and privates. The principle was the same, and should be applied equally. It may be said that a soldier is subject to the orders of his officers, and is dependent upon their will; that he has contracted for his services. But the same thing may be said of the officer. He, too, is subject to the orders of his superior officer. There should be no

discrimination between the officer and the soldier; for the principle of excluding one applies equally to the exclusion of the other. If the Convention think the principle right, it should carry it out. Why should there be an exception in favor of the one? One, it is true, has a distingnished title, and instead of eight dollars a month, receives a higher salary. But both are subject to the orders of the general government, and the same disability attaches to both—the incapaity to acquire a legal residence.

Mr. Humble hoped that the section would be divided, and that the exclusion to soldiers and marines would be placed by itself. He did not like to see them in the same section, coupled with paupers and criminals.

Mr. C. M. Conrad said that the most sensitive officer would not take exceptions to the section because the various causes of exclusion were embodied together. It certainly did not carry the idea of any association between the persons excluded.

Mr. Guion said he had serious objections to the suggestions of the delegate from Assumption (Mr. Taylor). The reason that I have to urge (said Mr. G.) for the exclusion of soldiers does not apply to officers. The one is under the entire control of the government; they are not free agents. This objection does not apply to the other. The restraint imposed upon the soldier is of a character to deprive him of that freedom which is essential to the exercise of suffrage. I know of no constitution that excludes officers of the army or navy from the right of suffrage. Such exclusion would be unparallelled. It would be an invidous distinction—not called for by any public necessity, or sanctioned by any just principle.

Mr. Miles Taylor said he had a few observations to make in reply to the gentleman from Lafourche. The gentleman has said that if officers be excluded from suffrage, it will be the first time that such an exclusion has been known in the limits of the United States. Because it may be the first time that such an exclusion has been made, does that alone prove the impolicy of making it? If the principle be right, and the delegate (Mr. Guion) admits that it is right, when applied to soldiers, why should it not apply to officers? I cannot see that there ought to be a distinction. It is true that the soldier is exposed to the brutality of unfeeling officers. But is it any the less true that the soldier forms a part of the military class as well as his officer. And is not the officer subjected to punishment and control? There is not the power to inflict the same punishment which is sometimes inflicted upon the poor soldier; but there is the power to inflict a punishment upon the spirit, to humble it and render it subservient. I know there are debased soldiers; but they are not debased because they are soldiers; it does not arise or belong to their station, which in itself is honorable. There are, however, soldiers as meritorious as any class of the community. A distinction ought not to be made based upon a mere difference of grade; for the distinction between officer and soldier, in point of fact, is only one of rank. It should be recollected that the president is commander-in-chief, and that every officer, however brilliant may be his equipage and distinguished his rank, is under the orders of the president, and the heads of the military department, and that it is in the power of the superior authority to improve or render uncomfortable, to advance or retard his prospects. But it is not on the ground of dependence that I think the exclusion should rest. It should be placed on the broad ground, that persons in the military service of the United States neither have, nor can have a proper civil residence; and this applies as well to officer as to soldier. I care not for dignity when a principle is involved, which is as applicable to one set of persons as to another. If the principle is right, it should be general. I have no disposition to detract from the high claims of officers in every respect; but I think they should be excluded from suffrage; because, from the nature of their duties, they are liable to the same objection as soldiers, that they cannot acquire the necessary residence.

Mr. Chinn said he would protest against any such exclusion of the officers in the service of the general government. They were among the most gallant portion of our countrymen. Several of these officers were stationed in Louisiana and were as much identified in its prosperity and in

the prosperity of our common country, as any portion of our fellow citizens. H never would consent to this exclusion.

Mr. C. M. CONRAD said that one great objection against allowing suffrage to soldiers was not applicable to officers. No possible danger could arise from admitting an inconsiderable body of men to vote, while great danger might result from granting the same privilege to a numerous class of armed persons. The number of officers was quite insignificant; the number of soldiers were much more numerous and might hereafter become still more numerous. They might be marched to the polls, in a solid body to vote one way or the other, and control the result. The body of officers were composed of some of the best citizens of the country. There were among them natives of this State—one of them a distinguished commander in the Naval service, and others who were fast ascending the ladder of fame. It would be unjust to exclude them from suffrage. They were essentially, in every respect, citizens of the State.

Mr. CLAIBORNE called for the previous question, which was sustained.

The question was taken on Mr. Miles Taylor's amendment to add the word "officers," and the yeas and nays were called for—ayes 10—nays 46.

Mr. VOORHIES moved to add to Mr. Claiborne's substitute, (the proposition of Mr. Mayo,) the word "paupers," in order that this description of persons should be excluded from suffrage.

Mr. M. TAYLOR doubted the propriety of making use of this expression. No one would come under the definition in Louisiana, as there were no poor laws. It would be better to use the word "mendicant."

Mr. CLAIBORNE repeated that if there were no class yet in Louisiana, to whom the term "paupers" could strictly apply, there would be hereafter.

Mr. VOORHIES' amendment prevailed.

Mr. C. M. CONRAD proposed to add the following after the word "paupers," "notorious vagrants." There were a large number (said Mr. C.) of this description of persons in the city and it behooved us to place the ballot-box beyond their reach. From a statement he had received from the worthy recorder of the first municipality, it appeared from the 23d of Sepsember to the 24th of last August there were committed by that magistrate, for petty larcenies and other minor offences, 2067 persons. The statement of the recorder of the second municipality showed a similar number. He was not aware of the number committed in the third municipality, but he presumed it was in proportion. The persons who would come under this clause were well known to the police, and could be readily detected. They were ready to do any thing but labor, and he feared that if the materials for carrying elections were so convenient, purchasers would be found during the excitement of a high political contest, to buy up their votes.

Mr. MAYO asked whether it was designed by the delegate from New Orleans, (Mr. Conrad) to constitute the commissioners of elections, judges of a criminal court.

Mr. EUSTIS doubted much the propriety of a provision which might be employed by the commissioners of election as a pretext for turning away voters. If the judges choose to say that a man was a notorious vagrant, he could not vote, and his right to vote would depend solely upon the inference which they choose to draw. This was going too far.

Mr. MAYO said the absurdity of the thing defeated itself. The gentleman has told us there are several thousand vagrants in the city, and before an election can be concluded, he would convert the commissioners of election into a court to try several thousand perons accused of vagrancy.

Mr. TAYLOR of Assumption, said that the laws of the State recognised what was vagrancy. The persons falling under that offence were subjected to the jurisdiction of the police and were known to the police. There was a fitness in excluding them from suffrage, but there was no such class as "paupers," and that exclusion could have no application.

The ayes and nays were called for on Mr. C. M. Conrad's amendment to add the words "notorious vagrants." Ayes 20—nays 30.

Mr. HUMBLE suggested that it would be more becoming to divide the section so as to place the clause excluding soldiers and seamen by itself. He objected to the association of this meritorious class of persons, with those found guilty of crimes.

Mr. Humble's suggestion was referred to the committee upon revision.

Mr. Chinn submitted a project relative to the measures to be adopted for taking the sense of the people upon the new constitution, and for submitting it for their approval, and asked that they be referred to a special committee.

It was referred to a committee of five. The President appointed Messrs. Chinn, Brent, Eustis, Guion and Soule members of said committee.

Mr. Lewis then moved that the Convention take up the thirty-fourth section of the general provisions.

Mr. Eustis proposed to strike out all after the word "privilges" and insert the following: "No corporation shall be created in the State in virtue of special laws, unless for political or municipal purposes; but the legislature shall provide, by general laws for the organization of all other corporations, except those for discounting and banking purposes, the creation of which are prohibited."

Mr. Eustis observed, that a great deal of time was lost in the legislature by passing various acts of incorporation, which were granted as a matter of course. Such for example as incorporations of societies for charitable purposes, incorporations of academies, literary institutions, churches, &c., &c. These acts were similar in form, and individuals could as well unite under the provisions of a general law before a notary; the legislature would be relieved of a great barthen and our statute books would be free from the senseless jargon and useless repetitions which we find in them. There is no necessity why the legislature should have its attention taken up with these things. It would be infinitely better to make one general law under which such associations or companies may be formed. This was the object he aimed at, and it was one, he presumed, that would meet with general acquiescence.

Mr. Lewis suggested that it was expedient to limit such acts of incorporation to twenty-five years. It might be understood that the corporators under a general law would have the right of perpetual succession. He would propose the following as a proviso: "provided no privilege of incorporation shall be granted to extend beyond twenty-five years."

Mr. C. M. Conrad would call the attention of the house to the fact that by the section, all acts of incorporation granted by the State were to expire in 1890, if an earlier period were not fixed in their charters. He conceived that this clause would give rise to great confusion and disorder; it would be the year of general breaking down—he could see no possible good that could arise from this provision. There were a number of incorporations to literary institutions, colleges, churches, and for charitable purposes. What possible good can result from bringing them all to a close? There is certainly no necessity why they should all terminate in the same year. Would it not be better to authorise the legislature to renew such charters as may expire? If they all expire in 1890, how is the legislature that meets that year, if in fact it do meet that year, to renew them in a space of sixty days only?

Mr. Lewis said he had one or two words to say in reply. It was true the year 1890 was assigned as the period when all corporations should cease, when there was not an earlier period fixed in their charters. But he did not see that any inconvenience would result as anticipated by the delegate from New Orleans, (Mr Conrad). Where it was deemed proper it could be prescribed by the legislature that charters should be renewed, and this would be done in reference to the institutions referred to by the gentleman, which were for scientific, religious or benevolent purposes. There would be ample time and opportunity for renewing all such charters. The great object with him was that no corporation should hereafter exist with an unlimited charter. It was an anomaly in our institutions. They were subject to change and to revision, and it was just and proper that corporations should be submitted to the ordeal of the public will. No man has a higher respect than I for charitable institutions; no man would go further in promoting their beneficient purposes; but yet I would not give them a perpetual charter, for fear that in the nature of things, they might pervert and abuse their privileges. I am a member of a religious sect, and would be glad to see it protected, but no further than is compatible with the public interests. I would have all other sects, and all institutions for the melioration of man protected,

but I would never consent to endow even them with a perpetual charter, and invest them with extraordinary privileges, which may be a charge not only upon ourselves, but upon posterity.

Mr. Conrad of New Orleans, proposed the following amendment:

"From and after the month of January, 1890, the legislature shall have power to revoke the charters of all corporations, whose charters shall not expire at that time."

He proposed this amendment to the clause in the section because it would obviate the inconveniences he had suggested; and it would be much better than to have the charters of all public institutions knocked in the head by a general and sweeping clause in the constitution.

Mr. Eustis suggested that Mr. Conrad's amendment rendered the proviso unnecessary.

Mr. Lewis proposed to add to Mr. Conrad's amendment the following: "except political and municipal corporations."

The amendment and sub-amendment were adopted; and the question recurred on the adoption of Mr. Eustis' proposition as a separate section.

Mr. Conrad of Orleans, said he was sorry the honorable member (Mr. Eustis) had not favored the house with fuller explanations as to the utility of his proposition. I am apprehensive, said Mr. Conrad, that it confers a dangerous power. The right of creating corporations is one of the privileges of sovereignty; the proposition divests the legislature of the power, but does not say what othor department of the government shall be vested with it. It often happens that in acts of incorporations clauses are introduced, apparently harmless, which are dangerous to the public interests. Who are so competent to weigh and to consider the privileges conceded as the legislature? We have already taken away the power from the legislature to create certain kinds of corporations, and now it is proposed to withdraw the power of establishing other corporations from that body, and to vest it in an authority which is not defined. Unless the gentleman will favor me with some better reasons than I have heard him as yet adduce, I shall feel myself under the necessity of voting against his proposition.

Mr. Benjamin said that the proposition met his reflections on the subject, and he though his colleague (Mr. Conrad) had misconceived it. Any one that had any familiarity with the proceedings of our legislature, will bear testimony to the fact that a great portion of its time is taken up in passing and amending charters, incorporating individuals who wish to combine a capital under the privileges of a charter. The question then before us resolves itself into this: Shall we put a stop to this useless consumption of time, and waste of money in the legislature? As far as my experience authorises an opinion, I think we should not hesitate in deciding this question affirmatively. But, says my colleague (Mr. Conrad), you are divesting the legislature of a power that clearly appertains to it, to place it elsewhere. I think he is wrong in drawing this conclusion; for the power, instead of being divested, remains where it belongs, in the legislature; and is more efficacious, inasmuch as it is less dispersed. The legislature has still the control over the subject. They may pass laws authorizing, in the public interests, the formation of public companies. Under the general laws, individuals may associate and combine their capital, provided they conform to the stipulations of those laws. This mode of legislation is not a novelty. We have now general provisions of law which apply to all corporations, and which govern them in the absence of express provisions in their charters. But perhaps the operation of the proposition will be more apparent by an illustration.

Suppose some twenty or thirty citizens desire to undertake the construction of a rail road, all they would have to do, under a general law, would be to go before a notary and have an act prepared in conformity to this law. Their company will go into operation as soon as the act be passed, with all the privileges and liabilities affixed to a charter. And, should it happen that a piece of land over which the road is to traverse, is the property of some citizen who does not choose to sell it; what will be the proper mode to obviate this difficulty? They will apply to the legislature, who in their judgment will refuse or decree their special privileges, the expropriation of the land for purposes of public utility. If

the legislature refuses, the corporation will dissolve itself; if not, it will prosecute its undertaking. But in either case the power resides in the legislature. This simplifies the process of forming corporations; if special privileges, or exclusive privileges are asked for, the legislature will act upon the demand, while, for general purposes, individuals will have the facility of incorporating themselves by public act.

As to the question of utility, in relation to general legislation upon such matters, it cannot be put in doubt. It will relieve the legislature from a great deal of useles labor; the routine of specifying the powers and liabilities of a corporation, occupies a great portion of the most precious time of the legislature, and diverts its attention from subjects which peculiarly appertain to it, and which cannot be transferred. We have an example of the waste of time attendant upon the granting of charters by special acts of the legislature. One branch alone of that body passed six weeks of the last session in discussing the provisions of a charter for a mutual insurance company! What a waste of time and money! But I will go still further, and insist that general legislation for corporations, is better than special legislation; for it frequently happens that in the conflict of debate, provisions escape observation, which would not be suffered to pass if the opportunity were given for a dispassionate examination and contrast of the charter in all its parts; but it is hurried through, or it is procrastinated so long that attention wearies, and many bad provisions go through, under the impression that they are matters of general detail.

Mr. Conrad of Orleans, said that these explanations were far from satisfying his mind. My colleague (Mr. Benjamin) lays it down as a principle that the object of the section is to facilitate the formation of corporations by individuals, subjecting them to the provisions of general laws. It seems to me that the right to incorporate, is a high and important privilege, inasmuch as it confers the power to contract without being individually responsible for the observance of the contract. Far from me, is the design to oppose the creation of corporations under proper restrictions, and with proper guarantees. I contend that the existence of a corporation pre-supposed the investment of greater or less privileges, and hence I concluded that it was not expedient to divest the legislature of the right to examine and prescribe the extent and powers of corporations, by separate and distinct legislation, applicable to particular cases. The legislature should determine upon the powers and liabilities of each incorporation. I do not think the gentleman has succeeded in invalidating this position. Of what consequence is it that there are some special privileges beyond the general law, if there be others that follow it as a matter of course. At best, according to the gentleman's argument, only a portion of the difficulty is resolved.

As for the consumption of time in the legislature, I do not think that a valid objection, it is not upon mere matters of form in a charter, that discussion is elicited in the legislature; and I have no doubt that in the particular instance referred to by the gentleman, if the legislature were six weeks in discussing some matters connected with the act of incorporation of a mutual insurance company, it was not on a matter of form, but rather in reference to privileges which met the disapprobation of a portion of that body, as being too great, or as being suceptible of abuses. Why should the legislature be deprived of the power of examining the provisions of each charter? The more I reflect on the subject, the more am I convinced that the section is not only useless, but dangerous; for I cannot suppose that an association of individuals would take the trouble, and go to the expense of incorporating themselves under a general law, without first obtaining the special privileges which would induce the formation of their company, and without which a charter would be valueless. I am apprehensive, on the other hand, that a great number of irresponsible companies will spring up under a general power to make charters, and which will enjoy the privileges incident thereto, which may be detrimental to the public interests. I would go so far as not even to allow corporation privileges to a church, unless through the intervention of the legislature, when it was demonstrated that the privileges asked for were necessary, and not repugnant to general interests.

The previous question was called for and sustained.

The question was taken on Mr. Eustis' proposition, and it prevailed—yeas 38, nays 13.

Mr. Eustis submitted the following section:

"After the year 1847 no corporation in this State shall issue notes or bills, in any form whatever, of a less denomination than ten dollars; after 1848, of a less denomination than twenty dollars; and after 1849, of a less denomination than fifty dollars.

"No action shall be maintained, after the year 1849, in any court in this State, on any note or bill of exchange payable to bearer, or endorsed in blank, of a less denomination than fifty dollars; and it shall be the duty of the legislature to enforce the execution of the preceding provisions, by such penal enactments as may be found necessary.

Mr. Conrad of Orleans, suggested doubts as to whether the provisions were constitutional.

Mr. Eustis said that those who knew him, knew that he should not have introduced the section had he not been persuaded that its provisions were perfectly constitutional. It is within the power of the State to legislate upon all matters that are for the interests of society, and which are favorable or repugnant to public morals. What may at one time and one place be permitted without detriment to society, may, at another time and another place, become highly dangerous; and I contend that the power which is in the people to change their legislation, according to the exigencies of the times and of different localities, belongs to the legislature which represents them and acts through their authority. Take, for example, lotteries; there is nothing in itself which is more harmless than the simple act of drawing a lottery; churches even have availed themselves of the privilege of lotteries, and have employed it to their profit; and yet for sound reasons of public policy, the legislature passed a law against lotteries in general, which our courts of law applied to a particular case, that appered to be beyond the general law. The circumstances of that case are these: A speculator bought the privilege accorded to a religious society in Natchitoches, of drawing lotteries. He established himself in the city, and in a short time the corners of the street were placarded with glittering bills announcing splendid fortunes to be obtained for a very inconsiderable sum, which was an irresistable inducement to servants and persons without reflection.

The attorney general having become cognizant of the fact, instituted proceedings against the proprietor of the lottery, to enforce the penalties of the law. That individual declared that he was guilty of no offence, that he had violated no law, and that he had only availed himself of a privilege granted by the legislature itself; having acquired it for a valuable consideration from a religious corporation in Natchitoches, to whom it had been granted. He considered himself beyond the power of a prosecution. He came to me and asked my opinion. I delayed giving it to him for a few days. In the meanwhile he informed me that he had obtained the opinions of several distinguished jurists, among others the opinion of chancellor Kent, that the legislature had no power to inhibit the exercise, by a penal statute, of a privilege which they had granted. I told him that I thought differently. His case came on before the criminal court, and he secured the services of gentlemen holding a prominent rank at the bar to defend him, Messrs Grymes and Mazureau were his counsel. The attorney general, at that time, Mr. Roselius, conducted the prosecution. The case was managed with a great deal of skill on both sides, with all the eloquence and power for which those gentlemen are so conspicuous. What was the decision? That in no case was the State divested of the penal power—the power to repress whatever it considered noxious or pernicious to society. I regret, said Mr. Eustis, to have had occasion to refer to a matter in which I had the remotest participation, but I could not better fortify the views I entertain that by adducing it in illustration of my position. I have nothing further to add than that the decision in this case met the general acquiesence of the bar, as it was founded upon just reasons of public policy.

Mr. Chinn said that the agitation of this subject at this particular moment, just as the Convention were at the end of their labors was a fire-brand thrown at random.

Why were these sections not proposed before? This sudden and unexpected way of introducing questions of the gravest import, at the close of a protracted session was, he might say, inexcusable. He would move for the purpose of testing the sense of this convention, that the section lay on the table indefinitely.

Mr. C. M. Conrad said he considered the section unconstitutional. He entertained a very high respect for the legal opinion of his colleague, but upon this question he differed with him entirely. As for the decision referred to by his colleague, it possessed no great weight. It came from a court more familiar with criminal cases than with civil cases. Suppose a bank were to resist the penal laws interfering with its chartered privileges, would it relinquish its vested rights without an appeal to the highest tribunal.

Mr. Lewis said that notwithstanding his aversion to paper money, he thought the section went beyond the necessity. It went too far. It is true that the legislature, strictly speaking may possess the power to impose penalties, yet the exercise of that power would be of doubtful propriety unless the abuse and its effect upon public morals were impending. With due deference for the opinion of the delegate from New Orleans, (Mr. Eustis,) I can see no necessity for this section, nor do I think that it can possibly do any good.

Mr.. Chinn, said he did not wish what he had said to be misunderstood. He had every respect for the gentleman that had introduced the section, while he heartily disapproved its introduction. As for any partiality towards banks, he could not be accused of it. He had never while a member of the legislature, voted for a single bank charter. But, nevertheless, he considered that the banks were entitled to the privileges of their charters and could not legally be deprived of them.

Mr. Eustis observed that to restrict the issue of small circulation was of benefit to the banks themselves, and in conformation of this opinion, he read from the minutes of one of the banks resolutions to that effect. So far from this measure being of the alarming character, which gentlemen in this body supposed, the best conducted bank in this city, in February 1843, attempted to carry it through. He referred to the Mechanics and Traders bank, which, although, in 1837, was in a critical position, subsequently by proper management has been placed upon the firmest foundation. That bank resolved to issue no notes under fifty dollars. The resolutions were sent to the other banks for their concurrence and they were rejected. Let us examine this question without prejudice and without passion. If the measure be constitutional, we should not hesitate to sanction it, for it must be apparent, that in a large commercial city, the city of an empire, which concentrates all the business of the great valley of the Mississippi, and which is destined to concentrate the trade and wealth of the immense region known as Texas, paper money as a currency will not do. Why do we not consult the experience of other nations. In England, there are no notes issued of a less amount than twenty-five pounds. In France no notes are issued under five hundred francs. This is the only means of giving stability to business, of avoiding revulsions, and resisting the shock of speculations, which are the natural consequences of a paper currency.

Mr. C. M. Conrad said, that his opinions upon this subject were well known. It was desirable that the circulation of bank notes should be raised. This was the opinion he entertained, and he conceived that when the banks forfeited their charters, it was the proper time to make it one of the conditions of their revival. The opportunity had passed by unimproved, notwithstanding the measure was submitted and urged upon the legislature. As chairman of a committee of the house of representatives, I recommended it. The legislature then had a right to impose this restriction. But they did not do it, and the circumstances are changed. The banks are fulfilling the conditions of their charters, and they have a right to all the privileges which those charters confer. The legislature cannot impair the obligations of the contract. My colleague (Mr. Eustis) however, avoids this difficulty, by drawing a distinction between civil privileges and penal statutes. His argument amounts to this: The banks under their charters have the right to issue notes of five dollars. You cannot withdraw the right, but you may prevent its exercise. The banks may if they dare, issue those notes, but if they do,

you will punish their presidents, cashiers and directors by a penal statute. You will hang them or send them to the penitentiary. I do not know how such a doctrine can be sustained by the constitution. This is the first time I have ever heard that an obligation may be violated with impunity by a penal statute. If those that sustain this doctrine be right, then it reminds one of the jugdment pronounced in favor of Shylock. He is told that he is entitled under his contract to his pound of flesh, but if he sheds, in taking it, one drop of christian blood, his life must pay the forfeit. So in the present instance, the banks are told that they have a right to issue small notes, but if you do it, the penalty is death. If this be not a violation of the constitution of the United States, it is a violation of good faith, which is much more imperative. We have said, that no banking institution shall for the future be chartered. The charters of those banks that are in existence are drawing to a close, and the number of banks has been considerably diminished. If the section be constitutional, which I very much question, I put it to the sober sense of the Convention, whether it be not clearly indefensible in principle?

Mr. Benjamin said he had voted to deprive the legislature of the power to grant special charters, unless for political or municipal purposes, which evidently showed that the lessons of the past had not been lost upon him. But, much as he felt disposed to coincide with the majority in putting a stop to the creation of banking corporations by the legislature, he could not sustain the proposition offered by his colleague (Mr. Eustis.) In the first place, he doubted much whether the measure was constitutional, notwithstanding the opinion of his colleague; for admitting that the legislature could not be deprived of the power to inflict penalties, and to inhibit the enjoyment of a privilege conceded by the legislature itself, but which had degenerated into an abuse pernicious and demoralizing to society. Still, it would remain to be shown, that there was any thing criminal in issuing notes of five dollars in place of those of twenty or fifty dollars. The argument proved too much, if it proved any thing.

But, difficult as it might be to determine the question satisfactorily in the abstract, it is of easy solution in reference to the point at issue. Among other dispositions of the laws of 1843, which was to regulate the position of the banks towards the State, there was one prohibiting the emission of small notes. The banks did not conform to that disposition, and their refusal entailed a heavy loss to the State. One of the conditions upon which these charters were revived, were violated, and it would have been in the power of the succeeding legislature to have passed a prohibitory clause, similar to the one now proposed to be incorporated into the constitution. The legislature did not, however, deem it expedient. The banks declared that this prohibition would be most burdensome, and that it would be impossible for them to fulfill the other conditions if this one were insisted upon. The legislature considered their objections to be valid, and authorized the emission of small notes. The banks have since only availed themselves of the prviilege to facilitate the transaction of their business, and the State cannot violate her engagements towards them without releasing them from their obligations; for it is an immutable principle of jurisprudence, that no faith is due to him who violates his faith.

Moreover, what is the present position of the banks. There are five banks only that have survived the revulsion of 1837. The charters of two of these expire in two or three years, and none of the remaining charters extend to a period, I believe, beyond twenty years. Would it then be proper, if it were indeed constitutional, to ordain so rigorous a measure, which can at best have but a partial and exclusive operation? The house will not fail to perceive that it is exceedingly unjust and inopportune; it has an appearance even of bad faith, and we may well pause and reflect whether it would be becoming in so august a body as this, representing the sovereignty and justice of the State, to exceed its legitimate powers and to annul a solemn contract entered into on the part of the State with those institutions?

Mr. Kenner said there was not a member upon this floor more disposed to confine the banks within their proper sphere, and to preclude the recurrence of those calamities from which the community have

so severely suffered, (the result of their mismanagement) than he, but he doubted much whether the Convention were authorized to introduce such a clause in the constitution. He disclaimed any thing like a design to consult the wishes of the banks. He was one of the last men to let their wishes have any weight, where the public interests were concerned; he would disregard even the opinion of the "ablest board of directors and the ablest bank president," to employ the panegyric of the honorable delegate from New Orleans (Mr. Eustis) in such matters. He had no intention himself to controvert the position of the delegate, backed as it was by such overwhelming authority. But, he would bring this distinguished financier and his "ablest board of bank directors," to contradict it themselves. He disliked to allude to himself, but he had the same apology to offer as the honorable delegate. It was necessary to illustrate his position. The honorable delegate had contended that it was for the interests of the banks themselves that their small circulation should be withdrawn, and had attempted to sustain his position by reference to the proceedings had by the Mechanics and Traders bank. Now let us see what this authority is worth! During the last session of the legislature an act was introduced conceding certain privileges to the banks, under certain conditions, deemed to be advantages to the State. I thought this a favorable moment (said Mr. Kenner) to bring about, what I considered, a very desirable reform. The State was about to make a contract with the banks, which was to be binding upon their acceptance of it, and I accordingly introduced a clause in the act similar to the one now before the Convention. I succeeded in passing it after some discussion. It was to have been presumed, that at least, it would have met the approbation of the very bank that had approbated as a matter of policy, the withdrawal of the small note circulation, and that she would not have made it an objection to accepting the conditions of the act, which in other respects was favorable to her. This reasonable expectation, however, was not realized. The cashier of this very institution, Mr. Samuel C. Bell, who has the advantage of being associated in its management, "with the ablest bank president and ablest board of directors," waited upon me and attempted to convince me that it was indispensable that this bank should have the facility of issuing a small circulation, and that if the clause I had introduced were insisted upon it would militate against the acceptance of the act by the bank. I leave it now to the Convention to decide, what the authority of "the ablest bank president and ablest board of directors" upon this matter, is worth? But independent of that, is it not evident that if the banks, who are not slow to understand their own interests, conceived it to be to their interest to draw in their small notes, they would do so. There is nothing to prevent it but their own will. As to the expediency of the prohibition for the public interest, I am in favor of it, provided it can be done in a proper manner, as I proposed in the act to which I have had reference and which was to have become binding only upon its acceptance by the banks. But, I cannot give my assent to any proposition which violates in the constitution, either directly or indirectly, the inviolability of contracts. Besides, we have decreed that there shall be no more bank charters, and the day is not far distant when we shall be relieved from those institutions altogether. There is therefore not even the plea of necessity for violating a contract, to cure at best but a partial evil, and assuming to ourselves, at any rate, very doubtful powers.

The previous question was called for and sustained.

The question recurred on Mr. Chinn's motion to lay Mr. Eustis' proposition indefinitely on the table, and the yeas and nays were called for—37 yeas; 15 nays.

Mr. Roman called up the following additional section:

"The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly, or in the aggregate with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, (except in cases of war, to repel invasion and suppress insurrection,) unless the same be authorized by a law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge

at maturity of the capital borrowed; and said law shall not be repealable until the principal and interests thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage."

Mr. Brent moved that the section be laid indefiditely on the table.

Mr. Roman said that it was true the legislature had abused the power of borrowing, and had involved the State. But because the legislature had forgotten its duty so far, is that a reason why we should go to the other extreme? Is it not quite possible that notwithstanding every disposition on the part of the legislature to avoid contracting debts, they may find themseves under the necessity of borrowing to meet contingencies which may arise; and what will be the position of the State, if you deprive the legislature in the most absolute manner of any power to fulfill the solemn engagements of the State? There is something more than mere improvidence in depriving a government of any power to meet the exigencies of the people, or the necessities of the State, occasioned by unexpected calamities. Restrain the power —that may be an act of prudence; but do not suppress it!—that would be an act of folly! Ordain that no debt shall be contracted, unless the means for its payment be first provided by taxation. You will then impose a responsibility upon the legislature and arouse the attention of the people, which will be a salutary and efficient check against prodigality and extravagance. It will be recollected by some in this hall, that I frequently recommended to the legislature to follow this plan in practice, and it is quite natural that, being persuaded from my own experience of its necessity, I should desire to see it settled as a fundamental principle in the constitution. Whoever will read attentively the section I have had the honor to present, will see that no loan can be effected unless the law authorizing it shall be re-enacted by the first legislature returned by a general election after its passage. With such a restriction, all possible danger is precluded.

The question was taken on Mr. Brent's motion and it was lost—yeas 24; nays 26.

Mr. Waddill then moved that the section be printed, and that it be made the order of the day for Monday next; which motion prevailed.

Mr. Chinn then moved that the Convention take up the following sections offered by him, and his motion prevailed:

Sec. —. Any person who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or receive a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as a second, or aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit under this constitution.

Sec. —. "I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of this State; and I do furthersolemnly swear (or affirm) that since the adoption of this constitution I have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending—So help me God.

Mr. McRae moved to amend the first section by adding after the word, "constitution," in the last line, the following:

"And shall be debarred of the privilege of suffrage." This would make the penalty more general; for there were many men who, from their reckless habits, never expected to hold office; but who would not like to be deprived of the privilege of suffrage, and this latter penalty would apply to them.

Mr. McRae's amendment was adopted.

Mr. Lewis said he was afraid the Convention was going too far. He was ready to do every thing that could be properly done to put down the pernicious practice of duelling. He was fearful, however, that this clause would in effect be impracticable. It might create a great deal of wrangling and disputation at the polls—some charging others with the offence of duelling, and others denying it. He hoped that the section would be reconsidered. It had passed apparently by default.

The yeas and nays were called for on

the motion to reconsider—21 yeas—29 nays.

Mr. Lewis then called for the adoption of the section.

Mr. Benjamin said he was fearful the Convention were acting upon this matter with too much precipitancy. The existence of duelling has invariably excited the profound attention of civilized society, by whom it is acknowledged as an evil, and various attempts have been made to eradicate it. Nothing is more desirable than legislation which can effect that purpose but the great difficulty is to apply suitable legislation; and it is evident from our own experience that if it be pushed to an extremity, and be not tempered with moderation and with the prejudices of society, it will prove utterly impotent and ineffectual. It is better to commit this difficult subject to the legislature, to be under their control, and to be disposed of according to the feelings and exigencies of the times, and not for us to attempt to eradicate it by an irrevocable provision, which cannot, after all, have any effect without the force of public opinion.

He would propose the following as a substitute:

"The legislature shall have power to pass laws for the suppression of duelling."

Mr. Chinn said there certainly was no haste or precipitation exhibited in relation to this subject. He had brought it to the attention of the Convention more than two months ago, and a full and free investigahad been had. As for the substitute, it amounted to nothing. It would not be effectual. He hoped the question would be taken upon the adoption of his section, and to arrest useless debate, he would call for the previous question.

The call for the previous question was sustained, and the question was put on Mr. Benjamin's substitute.

Mr. Guion proposed to amend the substitute by making it imperitive upon the legislature to pass laws for the suppression of duelling.

The sub-amendment was rejected, and the question recurring on Mr. Benjamin's amendment, it was lost—yeas 13; nays 35.

Mr. C. M, Conrad said that he presumed it was not designed to apply the penalties to persons who had fought duels in other States, since the adoption of the constitution, but who may subsequently remove into Louisiana. He would therefore, to prevent that construction, propose the following amendment:

To strike out the words "any person," and substitute "any citizen of the State."

The amendment prevailed.

Mr. Labauve moved to insert before the words "aid and assist," the word "knowingly." He explained that the absence of this word might give rise to a great deal of trouble to individuals. One may "assist and aid" by lending a horse or a pair of pistols to a friend, without being aware of the uses to which these things may be put.

His amendment was adopted.

Mr. C. M. Conrad moved to qualify the clause still further, so that it would read "aid and assist by his presence."

The yeas and nays were called for on Mr. Conrad's amendment—yeas 10—nays 37.

Mr. Porter then moved to strike out the words "or out of the State."

His motion was lost.

The question was finally taken on the adoption of the section as amended.

The yeas and nays were called for—yeas 35; nays 12.

Whereupon the Convention adjourned.

Saturday, May 3, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clarke opened the proceedings with prayer.

Mr. Voorhies begged leave to make a few observations in relation to matter personal to himself. The reporter of the Jeffersonian Republican had represented him, in his report of the proceedings as as being opposed to the exercise of suffrage on the part of the officers of the navy and army of the United States. This was not so, as was well known to every member of this body, and would appear from the official reports of the proceedings. He called attention to the occurrence with the view of correcting the misrepresentation, and requested the reporters of the Convention to notice this explanation in their reports.

Mr. Lewis called up his motion for the reconsideration of the section presented by Mr. Marigny, requiring the secretary of the senate, and clerk of the house of repre-

sentatives to be possessed of the French as well as the English languages.

The motion for reconsideration being before the convention,

Mr. Lewis said that he was not animated by anything like a wish to circumscribe the use of the French language. It was indifferent to him whether the English or French language was spoken in debate. He could understand both and speak both. What he objected to was the unconditional and imperative requirement upon the legislature that they must elect no one to be their clerk or secretary who was not familliar with both languages. He doubted not the legislature would do it without the requirement. It was indispensable that these officers should possess both languages, and as long as the necessity existed, the very necessity was the best guarantee that it would be done. But this is a matter where the legislature should have a discretionary power. They should not be trammelled, and irrevocably bound to conform to a provision which depended upon a necessity, that may not hereafter exist. He was not disposed to flatter this or that particular population. He considered that there was a perfect equality between our populations whether their mother tongue was French or English, and they were entitled to equal privileges. He had been matured among the ancient population—no man respected or esteemed that population more than he, nor no one would be more ready to defend their rights were they assailed. But he did not think such a provision an asseveration of their rights,or that it could force the French language to be employed, if in the nature things, it was destined to fall into disuse, which for one he would deplore. Neither did he think there was danger of such a result as apprehended by the mover of the section, (Mr. Marigny.) Whether there was real danger, however, or not, one thing was very certain that this section could accomplish nothing, while it was unsusceptible of defence upon principle. His admiration for the population that spake the French as their mother tongue, was based upon an intimate knowledge of their character. He remembered the time in Louisiana of the ancient virtue, when a man's word was his bond, and good faith needed not the spur of the law to be preserved nviolable, when bills, bonds and notes were unknown. He trusted his motives would not be misunderstood. It was unnecessary for us to attempt to legislate upon accidents. If we attempt this, we might as well establish ourselves into a perpetual legislature. These were his grounds of objection to the first clause. In reference to the second clause, all he had to say was this, that it was superfluous. A person had the right to address the body of which he was a member, in the language with which he was most familiar, but he might encounter the risk of not being understood, if the language was not one in general vogue. That, however, was an inconvenience which no legislature could prevent.

The yeas and nays were called for on Mr. Lewis' motion to reconsider.

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Dunn, Garrett, Hudspeth, Humble, Lewis, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Scott of Madison, Splane, Stephens, Taylor of Assumption, Waddill, Wadsworth and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Bourg, Claiborne, Culbertson,Covillion, Du Bouchel, Derbes, Eustis, King, Ledoux, Legendre, Marigny, Mazureau, Pugh, Roman, Scott of Baton Rouge, Voorhies, Winchester and Winder voted in the negative—20 nays.

Mr. Marigny said he had not the intention, as was intimated rather indecorously the other day, to propose any measure repugnant to good sense; on the contrary, he had never offered a suggestion or made a single remark in this body that was not to sustain useful and proper principles. A spirit of irritation has been got up against the clause I had the honor of introducing and which was adopted by this Convention, and a determination to have it expunged from the constitution by one means or another. I am therefore reluctantly forced into this contest. I accept the perilous task of defending the rights of that population whose privileges it is sought covertly to invade and destroy at the moment they are addressed in terms of flattering adulation.

We have been asked with a great degree of satisfaction as if it were unanswerable, why it is that no such provision is found in the constitution of 1812 ? I answer readily, for a simple and obvious reason: The

Florida parishes were not at that time a part of the State; and three fourths of the then population of Louisiana proper, were French naturalized citizens, or descendents of French; and there was no occasion, no necessity for any provision to ensure the retention of the French language in our deliberative bodies. But things have materially changed since. Within the last thirty-three years that have followed the adoption of the old constitution, the Anglo-Saxon race have invaded every thing. They have the supremacy in both houses of the legislature, as they have in this body; where out of seventy-seven members there are but twenty-one of french origin. It is under these circumstances that a persevering effort has been made (as has been shown by the zeal of the delegate from St. Landry, Mr. Lewis) to deny this simple act of justice and to abolish the language of the ancient population to favor the language of the Briton. Let none be deceived by the covert character of the attack. This hostility to the French language is stimulated by the design to abrogate our civil system of law. And is it to be expected, that I, one of the representatives of that population which has now become the weakest, will not call up all my energies to defend and to protect their rights from impending ruin.

But we are told with apparently a great deal of magnanimity, of what consequence is it, whether one language or another be spoken in the legislature. This is a mere subterfuge. There never has been in Louisiana but two political languages, the English language and the French language. Your laws, your codes, your legislative records, your ordinances all establish the fact! Look at the 39th article of the general provisions which has passed this body. It prescribes that the laws shall be promulgated in French as well as in English. How, under this article, can the secretary of the senate and the clerk of the house of representatives ascertain whether the law is duly fulfilled, unless they understand both languages? I know that the Anglo-Saxon race are the most numerous, and therefore the strongest. We are yet to learn whether they will abuse the possession of numerical force to overwhelm the Franco-American population. Whether they will deny them equal privileges. Count the relative strength of both populations in this Convention. One has fifty-six votes, the other but twenty-one. Why is this so? Because the ancient population has not been influenced by considerations of origin. But can you abuse the confidence they have reposed in your sense of justice? Ah! if the descendants of that ancient stock of creoles had have been animated by the energy which I feel, we would not now be in a situation to apprehend the result of a vote, upon which depends the maintenance of our language. We would not be here supplicating that as a favor which belongs to us as a right, of which you cannot deprive us without a violation of the most sacred principles of justice. We could have become Americans without you, for we have the moral and political virtues that characterize the true republican, and it depended alone upon ourselves to restrain you from any superiority. Beware of abusing the power which we have supinely suffered to pass from our hands into yours.

Mr. Wadsworth said he had voted for the proposition of the delegate from New Orleans (Mr. Marigny) because he thought it a matter of no consequence at the moment, but upon further reflection he would suggest whether it was not totally unnecessary, and whether it ought to be found in the constitution? Why lay this restriction upon the legislature? They are the proper judges of the qualifications of their officers. And if we go on to prescribe and say that these officers shall be versed in French as well as in English, why not say that they shall understand Spanish? It is true that Louisiana was formerly a French colony, but it has been likewise a Spanish colony. The Spanish language was once the legal language, just as much as the French language. There are remnants of that population and of their descendants still in the State, and the Spanish language may be most familiar to them. They may likewise be elected to the legislature, as well as those whose maternal tongue is French, and if you prescribe as an irrevocable qualification that the secretary of the senate and clerk of the house shall understand French, why not say they shall be conversant in the Spanish? I have certainly no design to do any thing calculated to drive the French language out of use,

but we have a national language, and that language must necessarily predominate. It will be the language of the rising generation of French descent. The gentleman from New Orleans (Mr. Marigny) speaks as if he were the representative of a distinct class. What does he mean? Does he mean to intimate that there is a distinct population in Louisiana, represented in this Convention, who are not Americans? I know of no such distinctions; I admit of none, nor do I admit any superiority based upon a distinction of what he calls the Anglo-Saxon race and the Franco-American race. We are all Americans, we all belong to the same country, whether we have a greater infusion of one kind of European blood than another. I have no greater respect for Anglo-Saxons than for other European races. In fact, I doubt much the accuracy of this term applied to any population in this country. My idea is that the ancestors of that population which are called Anglo-Saxons, were Normans; that they came from Normandy, and that the true Anglo-Saxons disappeared among their conquerors. The Anglo-Saxons, at any rate, were a defeated people. I may have Anglo-Saxon blood, and I may have Norman blood, but if I have any of the former I should not boast of it! The Saxons were whipped, and I should not be proud of being descended from them. We are so mixed up that it would be difficult to ascertain what particular kind of blood predominates. All these illusions to particular races is a matter of mere humbug.

As to the adoption of the section, I would suggest that it can have no useful result. The legislature will be guided in this matter by the existing necessity. If it be necessary, why they would adopt the principle of the section, and it would be superogatory. If, on the other hand, it should become unnecessary, why require it? I do not understand it as essential for the protection of any portion of our population.

Mr. Chinn said he was in favor of that portion of the section which gave to each member the right of addressing the legislature in French, if he judged proper, for he considered it a vested right by the acquisition of Louisiana, a right of which we cannot deprive the ancient population. But as regards the clause in reference to the secretary of the senate and clerk of the house of representatives, he felt bound to say that he could not vote for a restriction in the constitution, which incapacitates the legislature from electing any but those versed in the French language to those offices, and he would base his objections to it upon the very urguments of the honorable mover, intended to show us that this clause is necessary. That delegate has told us that at the adoption of the old constitution three-fourths of the citizens of Louisiana were of French origin, but that since things have so far changed, that in this body, out of seventy-seven delegates, twenty-one alone are of French origin.

If this diminution should continue in the same proportion, it is evident that the day is not very distant when the only language spoken will be the language in which the constitution of the United States is written. The only thing that can be desired is that so long as the necessity may exist for it, the officers of both houses should be conversant with both languages. The best guarantee to ensure the observance of this will be the necessity itself, and past experience has fully demonstrated that no disposition exists to embarrass the transaction of pbblic business, by choosing officers who do not understand the French language.

Mr. Brent called for the division of the question.

Mr. Eustis said there were two populations represented in the Convention, to-wit: the anglo-American population and the descendants of the French, who were the first settlers of Louisiana. The former, by their enterprise, activity and intelligence, were destined to have ascendency over the latter. It is in vain to deny it. It is as certain that that the American population will have the ascendency as that the earth is illuminated by the rays of the sun. The other population are already in a small minority; one of their representatives has told you what? He has appealed to your magnanimity. He has asked that the secretary of your senate and the clerk of your house of representatives shall understand the French language, because he conceives it to be a right guaranteed to the ancient population. He tells you that he knows that the population he represents are to be overrun; you have the power numerically,

but are king numbers to prevail? I do not believe, no one believes, that numbers govern the world. It is intellect that governs the world. Give the sons of that population the necessary stimulant, let the necessity once exist for them to exert their faculties, establish an university, where the lawyer, the architect, the man of science may be found, and my life upon it that race will maintain itself. Its blood has already told in the annals of your country. It has produced your Bayards, your Pettygrews, your Guions, your Legarés, and many of the most accomplished and distinguished statesmen of theage. The same causes operating, will produce men equally as remarkable. All that this population ask of you, through their delegation is some public guarantee; something in the constitution merely directory that they be heard in the councils of your State. But, gentlemen say: this is unnecessary to secure them that right. If it were unnecessary, they would not ask it. It is but a small boon. Give them only an equal opportunity with the anglo-American race, and you will find that their French blood will tell. I merely wish to submit these views, why the motion of the gentleman from St. Landry (Mr. Lewis) ought not to prevail. If the Convention think that the section should be erased, so be it; I shall vote against it. We should do nothing to which objection will be made, for the constitution will require all its force to be adopted, and I should regret to see even prejudices enlisted against it.

Mr. Wadsworth said that no attack had been made on the French population, nothing had been said against that population, and no necessity existed for a labored defence. The idea that the right to speak French had been put in controversy, was preposterous. Who denied that right? The only reason why we find the English spoken in preference in the legislature and in this body, is because it is more generally understood, and it is presumed that what is said in English will have greater effect, because it is more generally understood. No one ever objected in the legislature to a gentleman speaking in French, although English may be his maternal tongue. One of the delegates from New Orleans (Mr. Soulé) invariably addresses this body in English, he does so because he is sufficiently familiar with the English to speak fluently, and because a majority of this body do not understand French. Why should we make this a question of races? I cannot so consider it. I am sent here by a constituency, the majority of whom are descended from the French, and I certainly would be the last one to deprive them of any right or privilege of which they have heretofore been in the enjoyment. I make no distinction. It is immaterial to me whether the ancestors of a man were Normans or Anglo-Saxons; it may answer well enough to get up a discussion for home consumption; a talk for bunkum, but surely, in the present instance, there are no grounds to build the assumption that it is designed to deprive a portion of our common constituents of any of their rights and privileges. As for talking of a boon, a favor to the creole population, from what has been denominated the Anglo-American part of this house, I repudiate and deny that such is the fact. The creole population have too much pride to ask for boons and favors. They know their rights and will maintain them, without this unnecessary and useless provision.

Mr. Lewis said he had no objection to the latter clause of the section. He would move to lay the first part of the section indefinitely on the table.

Mr. Taylor of Assumption, said he hoped this motion would prevail. He represented a constituency among whom there were a smaller number speaking English than perhaps in any other parish. Few spoke any other language than French, and among those a large proportion spoke Spanish. He would be one of the last to restrict his constituents in the exercise of any of their rights and privileges; but he considered the section as entirely useless. It was only prescribing that which existed as a natural right, and which was above the necessity of a constitutional provision. The right was inherent. It was not strengthened by any such declaration. He was unwilling to apply a strong term, but he could not refrain from designating as a perfect absurdity, the clause which declared that each member of the legislature should have the right of addressing that body in French. Our system of government would be a mere farce if our legislative bodies are to put in doubt the inalienable privileges of the citizens,

for the purpose of decreeing them. For one, I am unwilllng that this section should appear in the constitution.

Mr. BRENT said he would vote in favor of tne second clause, but he was averse to the first.

Mr. WADDILL was opposed to the section because he considered it altogether unnecessary. A representative to the legislature had a right to speak in any living language—it was an inherent right.

Mr. MARIGNY said he admired the tactics of the gentlemen who were so solicitous to effect their purpose, of abolishing the French language. They professed to be perfectly indifferent as to languages. I would appeal to the honorable delegate from Opelousas, Mr. Thomas H. Lewis, who has placed himself at the head of this new crusade against the ancient population, does he believe that it has ever entered into the imagination of any one to speak Choctaw or Dutch in our legislative assemblies? And does he not know that the French is the only language spoken, except the English?

It is impossible for these gentlemen to conceal their true designs. If you have resolved to overthrow the last remnant of creole nationality, have at least the courage explicitly to avow it.. Your evasions expose you; for I would ask you, of what is the naked privilege of speaking the French, if the secretary be unable to translate what has been said, for the information of such members as understand the English language only? You are strong, because I am alone to struggle against you; but if there were twenty delegates in this body like myself, you would not have undertaken this task, and you would have learned in a louder voice that any encroachments upon the privileges of a large and respectable portion of the population of this State, would not be tolerated.

Mr. WINDER said there was a great deal of discussion, as he conceived to very little purpose. There were but two languages spoken in our deliberative assemblies, the English and the French. The section goes no farther than to say that the secretary of the senate and clerk of the house of representatives shall understand both languages, and that a member may speak in either. It is admitted by those opposed to the section that this will exist independent of the section—that it is an inherent right. Where then is the use of so much discussion, and where is the impropriety of enbodying the principle in the constitution. If it be an inherent right, it is nothing extraordinary to find it in the constitution. It will not be the only inherent right enunciated in that instrument. He hoped the section would be adopted.

The question was then taken on Mr. LEWIS' motion, to lay the section indefinitely on the table, and the ayes and nays were called for,

Messrs. Brazeale, Brumfield, Burton, Chambliss, Chinn, Dunn, Guion, Hynson, Ledoux, Lewis, McRae, Peets, Porter, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Madison, Splane, Stephens, Taylor of Assumption, Wadsworth, and Wederstrand—23 yeas.

Messrs. Aubert, Benjamin, Bourg, Brent, Briant, Cade, Carriere, Claiborne, Conrad of Orleans, Covillion, Culbertson, Du Bouchel, Derbes, Eustis, Garrett, Hudspeth, Humble, King, Legendre, Marigny, Mayo, Mazureau, Pugh, Roman, Scott of Baton Rouge, Voorhies, Waddill, Winchester and Winder—20 nays.

Mr. WADDILL moved to add the following words to the last clause, "or in any living language."

Mr. DERBES moved that this amendment be laid indefinitely on the table.

Mr. WADDILL: if the amendment be rejected I shall then feel bound to vote against the section.

Mr. WADDILL called for the ayes and nays upon the motion to lay his amendment indefinitely on the table.

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, DuBouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, Marigny, Mayo, Mazureau, Peets, Prescott of St. Landry, Preston, Pugh, Roman, Roselius, Scott of Baton Rouge, Scott of Madison, Splane, Stephens, Taylor of Assumption, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder—48 yeas.

Messrs. McRae, Ratliff, Read and Waddill—4 nays.

Mr. MARIGNY called for the adoption of the section.

Mr. Guion said he looked upon the proposition as useless, and worse than useless. It would lead to evil consequences. We were not forming a constitution for the moment, for the present day, but to govern for ages to come. The population of Louisiana, it is said, are composed of French origin, and of Anglo-Saxon origin; but the greater portion of those of French origin, speak the English language, and the day is not distant when every citizen will speak that language. If we look at results we must be persuaded that the English will be essentially the prevailing language. I am, certainly, above suspicion of hostility to persons of French origin. The delegate from New Orleans (Mr. Marigny) belongs to the past. The present generation of Louisianians belong to young Louisiana. I am descended, like the gentlemen, from French ancestors, but I think, nevertheless, that we should place ourselves in a position that the English language should become the prevailing language of the State, as it is of the great confederacy of the States, of which Louisiana forms an integral part. I am, therefore, irrevocably opposed to the passage of this section.

Mr. Claiborne said that whatever may be the result of the vote about to be taken, it was incontestible that a member of the legislature could have the right of addressing that body in the French language. If the right was incontestible, and it was so conceded, it was ridiculous to recognize it, without at the same time guaranteeing that a translator should be provided. It was, therefore, essential to adopt or reject the section as a whole. As for myself, said Mr. C., I shall vote in the affirmative, if there were no other reason, because a respectable portion of the community desire this guarantee.

On motion of Mr. Lewis, the question was divided, and it was taken upon the first clause, that the secretary of the senate and clerk of the house of representatives should understand the French language.

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Bourg, Burton, Cade, Carriere, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, DuBouchel, Eustis, King, Ledoux, Legendre, Marigny, Mayo, Mazureau, Peets, Prescott of St. Landry, Pugh, Roman, Roselius, Scott of Baton Rouge, Splane, Taylor of Assumption, Voorhies, Waddill, Winchester and Winder—32 yeas.

Messrs. Brazeale, Brent, Brumfield, Chambliss, Chinn, Garrett, Guion, Hudspeth, Humble, Hynson, Lewis, Porter, Preston, Ratliff, Read, Scott of Madison, Stephens, Wadsworth and Wederstrandt—19 nays.

The question was then taken on the second clause, and the yeas and nays being called for,

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Cenas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Culbertson, DuBouchel, Derbes, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Pugh, Read, Roman, Roselius, Scott of Baton Rouge, Scott of Madison, Splane, Taylor of Assumption, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—40 yeas; and

Messrs. Preston, Ratliff and Read voted in the negative—3 nays.

Mr. Marigny gave notice that on Tuesday next he would ask for the reconsideration of the vote upon the proposition of Mr. Eustis, inhibiting the banks from issuing small notes under a penalty.

M. Preston proposed the following section:

"The legislature shall establish a reasonable compensation in salaries or fees, for justices of the peace."

Mr. Culbertson expressed the wish that the section should be so modified as to restrict justices of the peace to a salary.

The yeas and nays were called for on the adoption of Mr. Preston's motion,

Messrs. Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cenas, Chambliss, Chinn, Claiborne, Covillion, Culbertson, Derbes, Dunn, DuBouchel, Hudspeth, Humble, Hynson, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Pugh, Ratliff, Read, Scott of Baton Rouge, Splane, Stephens, Voorhies, Waddill, and Wederstrandt voted in the affirmative—40 yeas; and

Messrs. Aubert, Conrad of Orleans,

Eustis, Guion, King Roman, Roselius, Taylor of Assumption, Winchester and Winder voted in the negative—10 nays.

Mr. Miles Taylor proposed the following section:

"All judicial proceedings shall be conducted in French against all citizens of the State whose maternal language is French, and who do not understand nor write the English language."

The utility of this section, (said Mr. Taylor,) is quite evident. If it be indeed necessary that a provision should be adopted in the constitution that any member of the legislature may address that body in French, it is still more important to those citizens who understand the French language alone, that all proceedings in court to which they may be parties, shall be conducted in the language with which they are most familiar. I may be told that our legislature has already provided for this matter; but to this I would reply, that at best, it is in relation to civil and not to criminal proceedings.

Mr. Roselius said that if this proposition were to be seriously taken up, he would have to insist upon a like privilege for those American citizens whose maternal language was German.

Mr. Porter claimed a like privilege for his constituents, whose maternal language was Spanish.

Mr. Chinn moved that the proposition and amendments be laid indefinitely on the table.

Mr. Miles Taylor said that gentlemen had conceived it of great importance that the right should be constitutionally secured to speak French in the legislature. They had considered it important that the two houses should be imperatively ordered to elect no secretary and clerk that did not understand the French language. This has been the deliberate sense of this body, after mature reflection. What objection can arise to this provision? It proposes a principle recognized in our civil proceedings, and is surely a privilege of greater value than the election of two officers understanding French. It is true, in relation to civil matters, there is legislation at present upon the subject; but that legislation may be repealed. It is certainly of material import that the right of a person should be recognized in the constitution to have the proceedings in which he is involved, and upon which may depend his life, liberty, reputation and property, conducted in a language with which he is familiar, than that the representative in whose election he may participate, should be authorized in the constitution to speak French in the legislature!

Mr. Marigny said he was quite astonished that the delegate from Lafourche, (Mr. Taylor) who voted against the clause relative to the secretary of the senate and clerk of the house of representatives, should now come forward with so much generosity and propose that the proceedings in courts be conducted in French as well as in English. But who does not see the difference between the two cases; between a representative and an attorney? A suitor may choose an attorney, and does ordinarily choose a lawyer to represent him; but the representative has not the privilege of delegating his charge to another. He must represent them personally, and express his sentiments in proper person.

Mr. Brazeale called for the previous question, which was sustained.

The question was taken on Mr. Chinn's motion to lay the section and amendments indefinitely on the table.

Mr. M. Taylor called for the yeas and nays.

Messrs. Aubert, Brazeale, Brent, Burton, Cade, Carriere, Cenas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Du Bouchel, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Legendré, Lewis, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Pugh, Ratliff, Read, Roman, Scott of Madison, Scott of Raton Rouge, Splane, Waddill, Widerstrandt, Winchester and Winder voted in the affirmative—40 yeas; and

Messrs. Bourg, Briant, Covillion, Derbes, Guion, Ledoux, Roselius, Soule and Taylor of Assumption voted in the negative—9 nays.

Mr. Mayo proposed the following additional section, to be embodied in the article treating of the executive depratment:

"The governor shall have the power to issue writs of election to fill vacancies occurring in either house of the general assembly."

ORDER OF THE DAY.

The Convention took up the second sec-

tion presented by Mr. Chinn on the subject of duelling.

Mr. Briant moved that a clause be adopted to prevent any one engaged in a duel from testifying as a witness.

The law (said Mr. B.) against duelling has never been enforced, because there is no motive for inducing vigilance in its execution; that is, there is no inducement for bringing the offender to punishment. The best and most effectual mode of enforcing penal enactments against duelling would be to interest the community in the denunciation of those who may incur the penalties of such enactments. You have determined that whoever engages in a duel shall not be eligible to office; that they shall forfeit the civic right of suffrage. Go a little further, and interdict the duellist from the privilege of giving testimony, and that will awake public attention; for there are always those engaged in litigation who would desire to exclude a witness, as well as those who are anxious to obtain his testimony.

Mr. C. M. Conrad moved to amend the section by striking out the words "to the rules and regulations of the constitution and laws of this State," and insert the following: "to the constitution and laws of the United States and of this State."

This amendment was adopted.

Mr. Conrad further moved, to insert after the word "sent," the word "accepted," which motion prevailed.

Mr. Ratliff said that if there were any reasonable prospect that the end proposed by this section would be accomplished, he would cheerfully vote in favor of it. But he was apprehensive that instead of being relieved from the evil, it would appear in a much worse and more dangerous form. It will give rise to street fights, to coffee-house brawls, to assassinations upon the public highway. It is useless for us to attempt to legislate in the face of public opinion. Let us examine what we are about irrevocably to do. Under the provisions which we are called upon to place in the constitution, if I meet my adversary in fair combat and give him an equal chance for his life, you proscribe me; but if to avenge myself for any real or imaginary insult, I should meet him in the streets and murder him at noonday, I suffer no civil disqualification. I may represent my fellow citizens in the legislature, and I am not deprived of my privilege to vote. Is there in this any thing like justice? Is duelling a worse offence than assassination, that it should be visited with a heavier penalty? We have seen the whole city in mourning when an honorable and distinguished member of the senate, the lamented Waggaman, fell in a duel. The judges of the supreme court, and the highest dignitaries of the State attended his funeral; and do you think public opinion will confirm your proscription against an honorable citizen, because he has chosen to give his adversary a fair chance, rather than steal up in a dastardly way and take life unawares? It is acting upon a very superficial knowledge of the human heart to suppose any thing of the kind! But, moreover, is it not perceptible that by your oath you punish the honorable man, while you hold out an inducement to perjury to the man who has no moral perceptions? The former will not take the oath, and is excluded; the latter may take the oath and profit by his perjury. This is a singular kind of legislation!

I shall say nothing of the chivalric feelings of the populatiou of Louisiana, for whose habits so little attention and respect is shown in the provision. You expose them to the insults of strangers, and deprive them of all means of redress under the severest penalties, the loss of the privileges of citizenship. It has been said that our citizens are hot-headed and ready to get into disputes. From my own knowledge, I can deny this assertion most positively. I have spent several winters in the city; I have been out at all hours without arms, and without apprehension, for I have never been once molested. After all, people fight duels for the purpose of avenging their honor, and if it be wrong, (and I am very far from upholding the practice, for I have never had a duel, and I trust in God I never shall,) it is not this constitutional disability that will put a stop to homicide, for in place of duels you will have assassinations, which will become so common as to excite little or no surprise!

Mr. Chinn said he did not purpose, at this late hour, to argue the matter, but would confine what he had to say to a few well authenticated facts. It is notorious that in Virginia duels were quite as common

as they are in Louisiana. A provision was adopted similar to the section which has passed this body. It had no effect. At length it was resolved to apply the test of an oath. This was done, but the constitutional question was raised as to whether this could be done. The courts decided the question in the affirmative, and duelling from that moment ceased. I have no doubt that similar results in Louisiana will follow the adoption of similar measures.

Mr. Guion proposed the following amendment. To strike out all after and including the words, "and I moreover solemnly swear or affirm that since the adoption of this constitution, I have not fought a duel with deadly weapons," to the end of the section.

Mr. Guion said it was unnecessary, impolitic, to call upon a citizen to disfranchise himself by an oath. He was ready to take all proper measures for the suppression of duelling, but he could not consent to a provision which constrained a man to exclude himself. It might happen that in the hey day of youth, when the passions were so easily excited, that a young man might be drawn into a duel. He might afterwards regret it, and determine to abjure the practice. In twenty years he might be chosen to fill a high and important office; would it be right to exclude him because in his youth he may have fought a duel, and call upon him to exclude himself, when the occurrence may have passed away from the recollections of his fellow citizens, and he may more than have redeemed by the usefulness of his subsequent life, that one act of youthful indiscretion?

Mr. Lewis said, he rose to express his surprise at the motion of his friend from Lafourche (Mr. Guion.) If that gentleman desires the measure to be effectual, to be available, how can he reconcile it to himself to oppose this portion of the section. The section would be in vain, it would be worse than vain without that provision. A popular man elected to an office would never be questioned as to whether he had fought a duel or not, and he would take the ordinary oath and fill the office, although he may have fought fifty duels. What we hear dignified by the name of chivalry, when applied to duelling, is nothing but a remnant of barbarism, against which it behooves us to guard our youth. In fact, it does not so often happen that the man whose passions have become subdued by age and experience, yields to those sudden bursts of feeling and resentment which are so peculiar to youth. We should discountenance attacks of violence and passion on the part of our young men. We should inculcate in them a love of good order, and let them know that there is a holier object than the gratification of feelings of resentment. We should train them up to govern themselves within the bounds of reason and moderation, and not lead them to believe that their wishes may be carried by brute force. We should say to them, here is the irrevocable condition of your political preferment. You may aspire to the highest honors of your country, but if you violate that condition, all your hopes will be cut off. It is only in this way that we can expect to put down the vicious and demoralizing practice of duelling. But if you adopt the gentleman's argument, and tell young men they may fight as much as they please while in the hey day of youth, provided they abandon it when they get age and experience and their passions are subdued, you will fail of accomplishing any thing. The only efficacious mode is the administration of an oath, and if you abandon that, you had as well abandon the whole design.

The yeas and nays being called for, on Mr. Guion's motion to strike out,

Messrs. Briant, Cénas, Claiborne, Guion, Legendre, Marigny, Porter, Raliff, Roman, Soulé, Splane, Wederstrandt and Winder voted in the affirmative—13 yeas; and

Messrs. Bourg, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Culbertson, DuBouchel, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Mayo, Peets, Prescott of St. Landry, Preston, Pugh, Read, Roselius, Scott of Baton Rouge, Scott of Madison, Stephens, Taylor of Assumption, Voorhies and Waddill voted in the negative —33 nays.

Mr. Chinn called for the adoption of the section, and the yeas and nays were ordered.

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Dunn, Eustis, Hudspeth, Humble,

Hynson, Ledoux, Lewis, McRae, Mayo, yo, Peets, Preston, Pugh, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Voorhies and Waddill—36 yeas; and

Messrs. Cenas, Legendre, Marigny, Porter, Ratliff, Roman, Soulé, Splane and Wederstrandt—9 nays.

On motion, the first and second section were ordered to be incorporated in the general provisions.

On motion of Mr. Lewis, the twenty-ninth section was taken up.

Every law of a general nature shall be equally applicable to every part of the State.

Mr. Mayo moved that it be laid indefinitely on the table. He thought this provision impracticable.

Mr. Lewis said that this provision would cure some of the evils, but not all. He had sought in vain so to word it as to make it meet all the purposes designed. He found no language that would better convey the design. The evil that existed for a want of conformity in our legislation was a subject of general complaint. There are one set of laws for one parish and another set of laws for another parish, and it is to avoid this, that the committee sought a remedy, and have reported this as the result of their labors. It does not realize all I could wish, but I am yet disposed to take it for the want of something better.

Mr. Eustis said that he thought something in the spirit of this section was necessary. Our legislation in reference to the different parishes was in a great measure unintelligible. A distinguished member of this body, one of the judges of our district courts, informed me that the evil had become so great that it was impossible for him to ascertain what were the laws applicable to police juries, in the parishes within his district. The idea to have all these local laws to conform to a general and uniform system, is a most excellent idea, and one which we should not disdain. The confusion which exists is becoming greater and greater, and if we can apply a remedy, the earlier it is appled the better. All those special acts of legislation passed for individual cases, sometimes to allow a wife to despoil herself in favor of her husband whose affairs are embarrassed, at other times to allow a dishonest tutor to make way with the property of a minor, although designed by the legislature for far different purposes, have a deleterious tendency. Let us look at France, where the science of legislation has been so perfected: all laws there are general in their operation. Exceptional legislation as it exists in this State, is unknown. What is to prevent us from attaining similar perfection? Are we to be told of the necessity of certain local legislation? Why those laws form a particular class and they may be an exception, without entailing upon us the necessity of abandoning the principle of general legislation. I trust, in view of the importance of the matter, that the section will be laid upon the table until Monday, in order that we may meditate upon it so as better to adopt it to the attainment of the object proposed.

The section was laid over until Monday.

Mr. Scott of Baton Rouge, offered the following section on behalf of Mr. Mc. Callop:

"All contested elections for seats in the senate or house of representatives and for parish officers, shall be determined by the district court in the parish in which such contest may arise."

Whereupon the Convention adjourned.

Monday, May 5, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened with prayer by the Hon. Mr. Stephens.

Mr. Read presented the following section:

"Capital punishment shall not be inflicted in this State."

Mr. Brent, on behalf of the majority of the committee to whom had been referred the subject of the submission of the constitution to the people for their ratification, presented an ordinance for that purpose.

Mr. Chinn, on behalf of the minority of the committee, presented a counter report.

The report and counter report were laid on the table, and ordered to be printed.

The Convention then took up section twenty-four of the general provisions, together with the following additional section offered by Mr. Roman.

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate with any previous debts or liabilities, exceed the sum of one hundred thousand dol-

urs, (except in cases of war, to repel invasion and suppress insurrection,) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means by taxation for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

Mr. Lewis proposed the following substitute for the twenty-fourth section:

Sec. 24. The legislature shall not have power or authority to pledge the faith of the State as security for the payment of any bonds, bills, or other contracts or obligations, for the benefit of any person, corporation or body politic whatever, provided that the State shall have the right of issuing bonds in renewal of existing obligations, whether matured or not, but the new bonds shall not be issued for a greater amount nor at a higher rate of interest than the obligations which they are intended to replace.

Mr. Lewis said that the object was to leave the legislature free to make any arrangement beneficial for the interests of the State, but at the same time to place it out of the power of that body to increase the indebtedness of the State either in interest or in principal. No one would wish to see the State placed in a position not to meet those debts for which she was actually liable, at home or abroad.

Mr. Miles Taylor said that the principle enunciated was correct. But he thought it better to detach the second part of the section, and if it be adopted, to place it on the schedule as a transitory provision.

Mr. Roman considered it better not to separate the section.

Mr. C. M. Conrad proposed a verbal alteration. In place of the word "security" to substitute the word "surety." The former expression was equivocal.

Mr. Eustis said he wished to make a proposition. He was opposed to the provision authorizing the issue of new bonds. If the property banks were properly administered, the State would never be called upon for one sous. The State is only eventually liable, and that liability can only enure in the event of bad management or some unforeseen calamity perhaps, such as war. He was apprehensive of the power of issuing new bonds, it might be employed to perpetuate a state of things which we all deplore.

[Mr. Eustis here referred to data, exhibiting the position of the property banks, in corroboration of the remarks that the State could only be made liable through a bad administration of those institutions.]

It will (said Mr. E.) be indispensable that the administration be an efficient one, that the banks be made sensible that they must rely upon their own resources, in order that they may take proper measures for the collection of their debts. Otherwise, if recourse can be had to the State for postponing payment by the emission of new bonds, the consequences may be detrimental to the interests of the State, and to a salutary administration of the affairs of the banks. The assets of the banks are amply sufficient to pay every dollar they owe, and all that is necessary is proper administration. There was a time when it was impossible for them to call in their debts. Agriculture languished and confidence was gone. But the aspect of things has brightened. Agriculture begins to prosper and confidence begins to be restored. What more is necessary for them gradually to call in their debts and meet their obligations as they mature? No motive of interest actuates me in this matter, and I should be very sorry to advise any thing contrary to the public weal. But it strikes me as the true policy for the stockholders as well as for the State, to pursue such a course as will tend to the liquidation of the indebtedness of those institutions, and to the payment of interest as it may become due. The issue of new bonds in place of old ones accomplishes nothing. It only facilitates delay, and may be considered by some persons as savoring of repudiation; at any rate, it is a denial of payment for the time being. If the State be bound to redeem the bonds issued by her in favor of the banks, in default of their payment by the banks, and I do not permit myself to doubt that if the State is so bound, it will be necessary for her to raise the necessary

means. Others may think differently upon this subject. I do not question their convictions, I merely express my own. What is the course pursued by other governments under similar circumstances? They fund their public debts. They make stock of it. Why do we not adopt a similar policy? In France the debt is inscribed on the *Grande Livre*, and certificates of it are issued The bond holders of Europe would rather have stock than renewed bonds. The credit of the State would be placed upon respectable ground, if we adopted that plan. If these suggestions meet the sanction of the Convention, they can be put in a proper form.

Mr. C. M. Conrad said that if the section were adopted without the proviso, it would be tantamount to inhibiting the legislature from renewing the bonds issued by the State. It would be prohibiting the State from prolonging her credit. It was equivalent to saying that the State must be prepared to pay when these bonds fall due, in default of payment by the banks. Let us look at the circumstances. The gentleman tells us that the banks have sufficient assets, if they are properly administered, to meet every dollar they may owe. If they are not properly administered, the gentleman admits that the State must pay. But if the State can't pay, what is to be done? You inhibit her from making terms with the public, evidently the issue of new bonds. No; she is not to have that privilege, lest it may occasion bad management in the banks—a too great reliance upon the State! But what is she to do?

Mr. Eustis: Why, fund it!

Mr. Conrad: Well, what is that but a postponement of the debt? She may inscribe it on the *Grande Livre* and issue certificates for it; but is not this equivalent to a bond? It amounts to the same thing, whether you call it a bond, a certificate or an inscription upon the *Grande Livre*. It is nothing more than a prolongation of the debt. If you place it out of the power of the legislature to renew the bonds, you shackle the legislature. I concur with my colleague that the assets of the banks should be strictly and faithfully applied to the payment of their debts, but he must at once conceive, that if the State be placed in the position that she must immediately pay, in default of the banks, the bonds that mature, the State will be under the necessity of forcing the banks to sell their property at no matter what sacrifice, and the result will be very detrimental to the interests of the State and to the interests of the people. The legislature must have the power to protect the State in case of necessity. My opinions, I may say, are not less disinterested than those of my colleague upon this matter. I never owned twelve shares of bank stock in my life, and I never borrowed five thousand dollars of a bank. Thank God I never knew any thing of the property banks except as a member of the legislature. Emergencies may happen to place it out of the power of the banks to meet their obligations; wars may ensue, the staples of our country may become valueless; the seasons may be unpropitious; many things may happen which may make it necessary that the legislature should be left in a position to meet future contingencies.

Mr. Roman said he was sorry to differ with the delegate (Mr. Eustis,) but he must say he differed with him totally. The proviso, I conceive to be necessary, but if we were to refuse to adopt it, the legislature would have the right to issue new bonds to replace old ones, for the section cannot have a retroactive effect. It applies to the issue of bonds creating a new debt—not to the renewal of bonds for an old debt. I would ask the gentleman, if we are not in a situation to pay what we actually owe, is not the legislature bound to provide future means for the liquidation of her indebtedness, and if we are unable to pay at the moment without sacrificing ourselves, may she not renew the debt to a more favorable period? But it is said we cannot continue as the surety for corporations or individuals. But so long as the bonds are outstanding they bear the pledge of the State, and the State is surety whether we consent to be so considered or not. The idea of funding the public debt, as has been well remarked by the gentleman who last spoke, (Mr. Conrad) is but changing the form of the debt. It is nothing more. But it is not only as surety that the State is bound; she is liable on her own account likewise. Is it designed that she should remain under protest, her credit dishonored until the necessary funds shall come into the treasury, to enable her to meet her

debts? I cannot believe that any one in Louisiana would tolerate it. It would be a species of indirect repudiation. The people of Louisiana would scorn that doctrine. They would as soon think of putting their fingers in their neighbor's pockets, as to deny the payment of their legitimate debts!

Mr. Miles Taylor said he was unwilling to remain silent, lest his opinions upon this matter should be misapprehended. He concurred in many of the views of the gentleman who had just resumed his seat, (Mr. Roman.) In his general views, he certainly did concur. As to the course he recommends to be pursued, (said Mr. T.) I do not concur. Neither do I apprehend that to question the policy of that course would authorize the inference that one was favorable to repudiation. There are but few individuals in Louisiana who favor that doctrine.

I agree likewise in many respects with the delegate from New Orleans, (Mr. Eustis) but I differ with him as to the expediency of his remedy. With the remarks of the delegate that preceded him (Mr. Conrad) I differ altogether. Let us examine the section. Let us see whether the position of that delegate is sustained by the section itself. The gentleman argued upon the assumption, that if the first part of the section were adopted without the second, the legislature would be trammelled, that it would be unable if it thought proper, to issue new bonds in substitution of the bonds already issued. I do not agree with the gentleman in his construction, and I think it is clear he misconceives the purport of the section. [Mr. Taylor here read the section.]

It is manifest that the restriction upon the legislature applies to the future. There is not a word capable of being tortured to mean that the legislature shall be inhibited from acting for the benefit of the State in the matter of these bonds, nor from taking necessary measures to facilitate their payment. As was well said by the delegate from St. James (Mr. Roman) the restriction can have no retroactive effect. But that gentleman appears to think that unless we prescribe that the legislature may issue new bonds in place of those already issued, we shall lay ourselves open to the charge of repudiation. There are no grounds for such an apprehension. I do not think we can by a constitutional provision, effect the position of these banks; we certainly ought not to attempt in any manner, to interfere with them. The engagement exists in virtue of past legislation, and the legislature have full control over it. All that we have proposed to do applies to the future. The legislature is expressly prohibited from undertaking similar engagements hereafter. But what has been done is done, and is beyond our control. The legislature may issue new bonds in substitution of outstanding bonds, without the proviso; it has clearly the power, and therefore the proviso is unnecessary.

Mr. Eustis moved to strike out the proviso.

Mr. C. M. Conrad moved to strike out the following words: "as security," so that the section would read,

"The legislature shall not have power or authority to pledge the faith of the State for the payment of any bonds," &c. &c.

The yeas and nays were called for on Mr. Conrad's motion.

Messrs. Boudousquie, Brazeale, Brent, Brumfield, Cade, Cenas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Culbertson, DuBouchel, Eustis, Garrett, Guion, Humble, King, Ledoux, Mayo, Mazureau, Peets, Preston, Pugh, Read, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Voorhies, Waddill, Wadsworth, Wederstrandt and Winder voted in the affirmative—33 yeas; and

Messrs. Beatty, Bourg, Briant, Burton, Chinn, Downs, Dunn, Hudspeth, Hynson, Legendre, Lewis, McRae, Porter, Prescott of St. Landry, Roman, St. Amand, Scott of Baton Rouge and Winchester voted in the negative—18 nays.

Mr. Eustis then renewed his motion to strike out the proviso, and called for the yeas and nays.

Messrs. Beatty, Brazeale, Cade, Chambliss, Covillion, Eustis, Humble, Hynson, Ledoux, Mayo, Peets, Porter, Preston, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Taylor of Assumption, Voorhies, Waddill and Wederstrandt voted in the affirmative—21 yeas; and

Messrs. Boudousquie, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, DuBouchel, Downs, Dunn, Garrett, Guion, Hudspeth,

King, Legendre, Lewis, McRae, Mazureau, Prescott of St. Landry, Pugh, Roman, St. Amand, Sellers, Wadsworth, Winchester and Winder voted in the negative—31 nays.

Mr. Marigny proposed the following as a preamble to the section:

"Whereas the Constitution of the United States prohibits the several States from coining money, from emitting bills of credit, and from making any thing but gold and silver a legal tender for the payment of debts."

Mr. Culbertson moved to lay the preamble indefinitely on the table, and his motion prevailed.

Mr. Taylor of Assumption moved that the question be divided, and that the section be voted upon paragrph by paragraph, which motion prevailed.

The first paragraph was put to vote and the yeas and nays were called for.

Messrs. Beatty, Boudousquie, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Cenas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Downs, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, McRae, Marigny, Mayo, Peets, Porter, Prescott, of St. Landry, Pugh, Read, Roman, St. Amand, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—53 yeas.

No votes in the negative.

The second paragraph was put to vote, and the yeas and nays were called for.

Messrs. Boudousquie, Bourg, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, DuBouchel, Dunn, Garrett, Guion, Hudspeth, King, Legendre, Lewis, McRae, Marigny, Pugh, Roman, St. Amand, Sellers, Taylor of St. Landry, Waddill, Wadsworth, Winchester and Winder voted in the affirmative—31 yeas; and

Messrs. Beatty, Brazeale, Brent, Chambliss, Covillion, Eustis, Humble, Hynson, Ledoux, Mayo, Peets, Porter, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Taylor of Assumption, Voorhies and Wederstrandt voted in the negative—19 nays.

On motion, the whole section was adopted.

The additional section offered by Mr. Roman was taken up.

Mr. Lewis proposed to make amendments in two slight particulars. To strike out the word "any," in the fourth line and substitute the word "all," and in the seventh line to strike out the word "and" and substitute the word "or."

These corrections were adopted.

Mr. Lewis said he would submit one or two remarks. The object was to limit the legislature in spending the public money. It was to impose proper checks, without hampering the legislature to attempt the accomplishment of great public works. That power was not withheld. Of all powers, the taxing power was least liable to abuse; it was the safest, because the representatives of the people would consider well before incurring the responsibility of odious and burthensome taxation. If the pockets of the people had to be directly appealed to, before any money could be expended, the result would be greater circumspection in making expenditures. The necessity would have to be apparent and great, before the representative would dare to impose additional taxation, and before the people would submit to it. With the restrictions in this section, the evils of extravagance and prodigality in the administration of public affairs were precluded; for it is provided that the object for which the tax is imposed shall be specified, and that the law shall not go into effect until it is ratified by a succeeding legislature, returned at a general election.

Mr. Read moved to strike out all after the third line, with the exception of the parenthesis, and the section would then read:

"The legislature shall not in any manner create any debt or debts, liability or liabilities, except in case of war, to repel invasion and suppress insurrection."

He called for the yeas and nays on his amendment.

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Cade, Chambliss, Covillion, DuBouchel, Eustis, Humble, Hynson, Ledoux, McRae, Marigny, Peets, Porter,

Scott of Baton Rouge, Scott of Madison, Sellers, Soule, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—26 yeas; and

Messrs. Boudousquie, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, King, Legendre, Lewis, Mayo, Prescott of St. Landry, Pugh, Roman, St. Amand, Taylor of St. Landry, Voorhies, Wadsworth, Winchester and Winder voted in the negative—27 nays.

Mr. Miles Taylor proposed the following as a substitute:

"The State shall not be authorized to borrow money, unless to meet the indispensable wants of the government, without the consent of the people first had and obtained at a general election."

Mr. Taylor remarked that this substitute covered the whole ground. It applied to invasion or insurrection, to the ordinary current expenses of the government, and precluded the legislature from embarking in extraordinary and perhaps useless public works, without consulting the people, who were to pay for them.

Mr. Beatty said he was decidedly opposed to throwing upon future generations the folly and extravagance of present generations. There were only two contingencies in which he admitted the State was authorised to borrow. They were in the event of war and insurrection. He was opposed to all attempts to raise money, no matter how commendable the design, except for the purpose of self-defence. For all purposes of internal improvement, the people should be first consulted. The tax should be first proposed to be laid.

Mr. Roman said he apprehended that the desire to limit the power of the legislature was about to be pushed to a dangerous extreme. That power, I readily concede, should not be unlimited; and even if it be true that the legislature has not on all occasions shown that moderation and frugality in the public expenditures which were deemed expedient; yet it would be extremely unwise to take away the power altogether, to prevent its being abused. I think prudence dictates a middle course between the two extremes. This is the spirit of the section which is before the house. Those delegates that are fearful of the power of the legislature, and who do not wish to place the slightest confidence in the discretion of that body, deny practically, the feasibility of a republican form of government; and it would be as well to withdraw the power altogether as to say that the legislature shall not impose taxation. I do not say without the consent of the people, but with the consent of the people, to effect objects of public utility. The delegate from Assumption (Mr. Taylor) insists, as a preliminary step, that the people shall first be consulted, before any debt be contracted, no matter of whatever nature. This is precisely what the section prescribes. Unless the people are to be mistrusted as well as the legislature, and in order the better to protect them, it be designed to place it out of their power to ordain a tax, the section must be adopted; for it affords every possible guaranty, by making the people themselves the judges of the necessity of the debt.

Mr. Downs observed, that although the section contained the same provisions that did not meet his concurrence, it nevertheless embraced a principle, the necessity and expediency of which were obvious. I cannot sustain the substitute of the delegate from Assumption, (Mr. Taylor) because it seems to me obscure; and in such a matter, we cannot be too explicit. It must be borne in mind, too, that the liabilities of the State have arisen chiefly from her binding herself as guarantee for corporations, and not on her own account. The possibility of the recurrence of a similar state of things is precluded by a direct and positive inhibition. Now, if we go one step further, and prescribe that she shall not contract any debts on her own account, without the consent of the people, who must pay these debts, we provide all that is expedient. I think the section a proper one, and with some modifications, it ought to be adopted.

Mr. C. M. Conrad proposed to add the following to Mr. Taylor's substitute:

"Or unless the law authorizing a loan shall have been passed by two succeding legislatures, and decree a tax, or establish a suitable sinking fund to meet the interest upon the loan as it may fall due, and the principal, at the expiration of the period fixed for its redemption; and in such cases the law fixing the tax or establishing the

sinking fund shall not be repealed until the interest and capital shall be fully paid."

Mr. Lewis moved to lay the substitute, and the amendment to the substitute indefinitely on the table, and called for the yeas and nays.

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Brazeale, Briant, Brumfield, Cade, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Pugh, Read, Roman, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—47 yeas; and

Messrs. Cenas, Marigny, Scott of Baton Rouge, Soule and Taylor of Assumption voted in the negative—5 nays.

Mr. Roman moved to strike out the three first lines and to substitute the following:

"The aggregate amount of debts hereafter contracted by the legislature shall never exceed one hundred thousand dollars."

This amendment was adopted.

Mr. Peets moved to amend the section by striking out the words "during the whole term," &c. &c., in the thirteenth line, and substituting the following: "for a period not exceeding ten years."

Mr. Benjamin was opposed to this limitation, because it might preclude the legislature from making good terms. There were serious considerations why there should be no such limitation.

Mr. Peets thought that if the debt were not to come on the present generation, there would be much less solicitude felt. It would be a matter of indifference, since it would fall upon posterity.

Mr. Roman replied that the interest would have to be paid, and that would be a guaranty that the expense would not be heedlessly incurred.

Mr. Peets' amendment was lost.

Mr. Roman called for the adoption of the section.

The yeas and nays were ordered.

Messrs. Benjamin, Boudousquie, Bourg, Briant, Burton, Cenas, Chambliss, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, King, Legendre, Lewis, McRae, Mayo, Prescott of St. Landry, Pugh, Roman, St. Amand, Scott of Madison, Taylor of St. Landry, Voorhies, Wederstrandt, Winchester and Winder voted in the affirmative—32 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Cade, Covillion, DuBouchel, Eustis, Humble, Hynson, Ledoux, Marigny, Peets, Porter, Preston, Read, Sellers, Soule, Scott of Baton Rouge, Stephens, Taylor of Assumption and Waddill voted in the negative—22 nays.

The following is the section as adopted:

"The aggregate amount of debts hereafter contracted by the legislature, shall never exceed one hundred thousand dollars, (except in case of war, to repel invasion, or to suppress insurrection,) unless the same be authorised by some law, for some single object or work, to be distinctly specified therein; which law shall provide means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election, after its passage."

Mr. Read called up the additional section offered by him, to wit:

"Capital punishment shall never be inflicted in this State."

Mr. Lewis declared himself opposed to this section. If, however, it were proper, the legislature were competent to act upon the subject.

Mr. Chinn moved to lay said section indefinitely on the table, and called for the yeas and nays.

Messrs. Benjamin, Boudousquie, Brazeale, Brent, Cade, Cenas, Chinn, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Legendre, Lewis, Marigny, Mayo, Peets, Prescott of St. Landry, Preston, Pugh, Roman, St. Amand, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Winchester and

Winder voted in the affirmative—37 yeas; and

Messrs. Beatty, Bourg, Briant, Burton, Chambliss, DuBouchel, Garcia, Ledoux, McRae, Porter, Read, Scott of Madison, Scott of Baton Rouge, Soule, Waddill and Wederstrandt voted in the negative—16 nays.

Agreeably to previous notice, Mr. Garrett moved to reconsider the vote adopting the seventh section of the general provisions.

His motion prevailed, and said section was taken up, as follows:

Sec. 7. All civil officers for the State at large, shall reside within the State, and all district or parish officers, within their several districts or parishes, and shall keep their respective offices at such places therein as may be required by law; and no person shall be elected or appointed to any district or parish office, who shall not have resided in such district or parish long enough before such election or appointment to have acquired the right of voting for representative to the general assembly in such district or parish.

Mr. Lewis moved to amend said section by striking out in the sixth seventh and tenth lines, the words "district or."

The yeas and nays being called for on Mr. Lewis' amendment,

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Cénas, Chinn, Conrad of Orleans, Covillion, Culbertson, Derbes, DuBouchel, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Roman, St. Amand, Soulé, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstrandt, Winchester and Winder—34 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Humble, Hynson, Peets, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens and Waddill—17 nays.

Mr. Garrett moved to amend the section further, by inserting the following at the end of the same:

"And no person shall be appointed or elected to any district office, who shall not have resided in said district, or in an adjoining district, long enough before such appointment or election to have acquired the right of voting for representatives to the general assembly." Which motion prevailed.

Section twenty-ninth was taken up, viz:

Sec. 29. Every law of a general nature shall be equally applicable to all parts of the State.

Mr. Lewis offered as a substitute for said section the following, viz:

"No law shall be passed enabling particular individuals to make contracts which, by the general laws they were not permitted to make; or removing, in favor of individuals, any incapacity or disability imposed by general laws."

Mr. Benjamin said that the various attempts that were made, proved conclusively that it was impossible to attain the object desired, with sufficient precision.

Mr. Dunn offered as a substitute for the substitute of Mr. Lewis, the following, viz:

The general assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such a law shall have been given, under such directions and in such manner as shall be provided by law."

Mr. Lewis moved for the adoption of the substitute offered by him.

The yeas and nays being called for,

Messrs. Boudousquie, Brent, Cade, Derbes, DuBouchel, Eustis, Garrett, Hynson, Hudspeth, King, Lewis, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Stephens, Soulé, Taylor of Assumption, Taylor of St. Landry, Voorhies and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Briant, Brumfield, Burton, Cénas, Chambliss, Chinn, Conrad of Orleans, Covillion, Downs, Dunn, Guion, Humble, Legendre, Roman, St. Amand, Scott of Madison, Sellers, Waddill, Wadsworth, Winchester and Winder voted in the negative—25 nays; the vote being equal, the president voted in the negative; consequently said motion was lost, and the substitute was rejected.

Mr. Lewis moved for the adoption of the twenty-ninth section.

The yeas and nays were called for,

Messrs. Brumfield, Hudspeth, Hynson, Lewis, McRae, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Sellers,

Stephens, Taylor of St. Landry, Waddill and Wederstrandt voted in the affirmative—14 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Burton, Cade, Cénas, Chambliss, Chinn, Conrad of Orleans, Covillion, Derbes, DuBouchel, Downs, Dunn, Eustis, Garrett, Garcia, Guion, Humble, King, Legendre, Marigny, Mayo, Mazureau, Peets, Roman, Scott of Madison, St. Amand, Soulé, Taylor of Assumption, Voorhies, Wadsworth, Winder and Winchester voted in the negative—38 nays.

Mr. Chinn said he considered it to be his duty to present the following section. He believed it impossible for the new judiciary system to work as it is, and in case of its failure, or that the public necessities should require it, the legislature ought to have the power to provide such legislation as may be thought expedient. In offering it, he did his duty, and he left it to others to do theirs. His conscience would, at any rate be free from reproach.

Sec. —. The legislature shall have power, whenever the interests of the State may require it, to create courts of probates in each parish, or such other tribunals as may be calculated to insure a faithful protection and administration of estates.

Mr. Brent moved to amend said section by adding to the end of the same the following, viz:

"The judges of said courts shall be elected by the qualified voters in each parish."

Mr. Garrett moved that the section and amendment be laid on the table indefinitely.

The yeas and nays being called for,

Messrs. Benjamin, Boudousquie, Brazeale, Brumfield, Burton, Cade, Conrad of Orleans, Cénas, Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, Lewis, McRae, Peets, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Beatty, Bourg, Brent, Briant, Chambliss, Chinn, Covillion, Derbes, DuBuchel, Dunn, Garcia, Guion, King, Ledoux, Legendre, Marigny, Mayo, Mazureau, Porter, Pugh, Roman, Soulé, Taylor of Assumption, Winchester and Winder voted in the negative—25 nays; consequently said motion was carried.

Mr. Boudousquie gave notice that he would to-morrow move to reconsider the laying on the table indefinitely the above section.

The following additional section, offered by Mr. Conrad of New Orleans, was taken up:

"Taxation shall be equal and uniform throughout the State."

With the following amendment, offered by Mr. Garrett:

"All property subject to taxation in this State, shall be taxed in proportion to its value, to be ascertained by law. No one species of property, from which a tax may be collected, shall be taxed any higher than another species of property of equal value, subject to taxation."

Mr. Garrett moved further to amend said section, by adding the following proviso:

"*Provided*, That the legislature shall have power to tax merchants, hawkers, pedlers, privileges or incomes, in such manner as may from time to time be prescribed by law."

Mr. Downs moved to lay these propositions indefinitely on the table. He did not like a general provision, tying up the hands of the legislature in this matter, and making the slightest deviation from the rule laid down, fatal. If the legislature came as near as possible to equality and uniformity in taxation, it was all that could be reasonably expected. He could not vote for these propositions—it was unnecessary and inexpedient.

Mr. Garrett said he could not concur with his colleague, (Mr. Downs) that the proposition he had the honor to submit was unnecessary, or that it was inexpedient. It had been copied literally from other constitutions. He had never heard that there had been any difficulty encountered in carrying it into effect. Its object, certainly, was unobjectionable. It was to ensure an equal distribution of the burdens of taxation. There was no reason why one species of property of equivalent value, should pay a higher tax than another species of property. The first principle in taxation was equality. The section was not unnecessary, for it was not to be inferred

that the legislature would do any thing. It was quite likely they would continue to pursue the old system. This is not an untried experiment—it has been tested in other States with success, and there is no good reason why we should not adopt it here.

Mr. Conrad of Orleans, said that if there were good reasons for disposing, in the summary manner proposed, of the amendments offered, these reasons did not apply to his proposition. His proposition was nothing more than the enunciation of the principle, that taxation should be equal and uniform. It was the recognition of this principle. He presumed that the motion of his colleague, (Mr. Soulé) to lay on the table, did not apply to the enunciation of the principle.

Mr. Soule: I beg the gentleman's pardon. My motion comprehended all. I consider it all unnecessary.

Mr. Lewis said he differed with the gentlemen who took that view of the subject. So far from its being unnecessary, past experience has clearly shown it to be very necessary. There is not a State in the Union where a more partial system of taxation exists than in Louisiana. Horned cattle, for example, are taxed one cent per head, provided there are twenty-five. The tax upon one hundred head is one dollar. The tax upon a decripid, worn out slave is one dollar. And yet the one hundred cattle are worth infinitely more than the slave; he may be perfectly valueless, but the owner is, nevertheless, taxed one dollar. Whether his slave is old or young, useful or useless, the tax is still the same. The tax on land is arbitrary. The legislature say that it shall be so much for this parish and so much for that. The only just principle in taxation, is the principle of *ad volorem*. But as it is, that principle is not observed. In the parish of St. Landry the land tax is double what it is in some parishes of a similar extent of territory, and agricultural wealth. An old worn out carriage, not worth fifty dollars, ascending to the same unequal system, is made to pay a tax of five dollars, while a new carriage, worth five hundred dollars, pays but five dollars. Is there, in this, any thing like equality. It is the reverse of any thing like justice. The present proposition tends to limit the imposition of taxes according to the value of the property taxed. That is the true principle, and the result will be, that a property, worth ten thousand dollars, will pay just ten times as much taxes as a property worth one thousand dollars; whereas the reverse is often the case, under the existing system.

Mr. Soule: The principle of equality in taxation need not be asserted; it is just as clear as that two and two makes four. It is unnecessary to discuss the principle. It is true that abuses have grown up under the existing system, but are they not inherent to the infirmities of human nature, rather than to the system that has prevailed? These abuses will exist, do what we may, and whether we assert the fundamental principles of taxation or not, it will make no material difference. Hence it is, I insist upon my motion to lay the section and amendments on the table.

Mr. Taylor of Assumption, said that the principle involved was of great importance. As was truly remarked by the delegate from St. Landry, (Mr. Lewis) the practical operation of our system of taxation, was without example in any State of the Union. Certain species of property were exorbitantly taxed, and other species, of equal or greater value, were slightly taxed, or not tazed at all. One species of property pays nothing, and contributes nothing, while some others contribute but trivially. Look at the land tax. It has from time immemorial been fixed at forty-seven thousand dollars. What an insignificant amount from that source, in comparison to what is realized from slaves. They are made to contribute about five times as much. Moveable property, again, is never brought into account; it pays nothing. Then there is capital in money, which is employed under the protection of our laws, that pays nothing. And yet if the very same capital be invested in slaves and in agricultural pursuits, it is taxed very heavily. While I agree, said Mr. Taylor, in the remarks of the delegate from St. Landry, (Mr. Lewis) I do not think that the proposition submitted by the delegate from Ouachita (Mr. Garrett) meets the difficulty. I object to it because it confers on the legislature the power to discriminate, and to determine what kind of property shall be taxed. It may impose taxation on one species of property and not

on another. What it requires is only equality in apportioning taxation upon the property that the legislature may think proper to tax. I am opposed to that feature, and will offer the following as a substitute:

"The revenue of the State, derived from taxation, shall be assessed equally upon all the property of the State, according to its value, to be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property shall be taxed higher than any other species of property of equal value."

Mr. C. M. Conrad said, that one very serious objection to the substitute would be the difficulty of coming at all the property of the State. Would the assessors have to go to the ba.n-yard, to ascertain how many chickens there were, and how many ducks. How were promisory notes and bills of exchange to be got at for the purpose of taxing them. It was apparent that a large portion of the property of the State could not be got at. The gentleman's proposition resembled rather a plan of taxation than a principle of taxation. He doubted very much its practicability.

Whereupon the Convention adjourned.

Tuesday, May 6, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Warren opened the proceedings with prayer.

Mr. Porter gave notice that he would on to-morrow move to reconsider the vote adopting the section offered by Mr. Taylor of Assumption, in relation to the acquisition of residence.

Mr. Winder submitted the following resolution:

"*Resolved*, That from and after three o'clock this day, no new provision shall be offered, except by way of amendment, unless the Convention shall give its consent thereto by a vote of two-thirds of the members present."

Mr. Scott of Baton Rouge, moved to amend said resolution by adding the following:

"And that the Convention shall adjourn *sine die*, on Saturday next at three o'clock, p. m."

Mr. Winder accepted the amendment.

Mr. Winder then moved for the adoption of the section as amended.

Mr. Porter appealed to the patriotism of gentlemen not to hurry over the important business of the Convention, for a delay of two or three days at most. For himself he was anxious that the Convention should adjourn at the very earliest moment, when it should complete its task with all due dilligence and dispatch. He had been among those that had never been absent for a single hour from his seat. He hoped that the Convention would not dispatch its business after the same fashion that it was dispatched in the legislature at the close of a session. We should remember that there is an essential difference; if the legislature, through impatience, at the close of its session does wrong, there is a remedy at the next session; but the acts of this body are, in a great measure, irrevocable.

Mr. Dunn called for the previous question, which prevailed.

Mr. Dunn then moved for a division of the question, to take the vote upon the first proposition, which motion prevailed.

"*Resolved*, That from and after three o'clock this day, no new provision shall be offered, except by way of an amendment."

Said proposition was adopted.

The second proposition was then adopted.

The third proposition was then taken up, that the Convention adjourn on Saturday next; and the yeas and nays were called. For the adjournment, 24, against it, 27.

Mr. Guion submitted the following resolution:

"*Resolved*, That after the constitution has passed though its second reading, it shall be taken section by section, for a third reading; at which time no amendment which may be offered shall be adopted, unless by a majority of the members elected to the Convention, or by a greater number of votes than were given for the section at the first reading. No debates shall take place, and no remarks shall be permitted, but such as may be strictly necessary to explain the object of the the amendment; and after all the sections have been acted on, the question shall be put on the final passage of the constitution.

On motion of Mr. Cade, the rules were dispensed with, in order to take up the

above resolution; and the same being taken up, was adopted.

Mr. Taylor of Assumtion, offered the following section, viz:

The legislature shall devise and establish a system of common schools for the education of all the children of the citizens of the State, and shall provide at least three-fourths of the funds necessary for the support thereof, by a tax on property.

Mr. Trist said, I now rise, Mr. President, to move the reconsideration of the vote making one senatorial district of the parishes of Ascension and St. James, in order that two districts may be made, one of each parish, with one senator to each district. I am induced to move for this division because I know it to be in accordance with the wishes of those who sent me here; at the same time, that it disturbs no cast iron rule, no inflexible rule of apportionment; since none such has been established by this body. The two parishes are about equal in wealth and population. It will also go some little way towards correcting a wrong done to a minority. I have heard, Mr. President, a good deal said in this body about protection of minorities. Now, sir, in the part of the country where I live I know of no minority requiring protection except a party minority: in all other matters we are a homogenious mass, without any jarring or discordant elements. Now, sir, what regard has been paid to the rights and feelings of the minority in that part of the country? Why, it is excluded from all chance of participation in the senatorial representation. I do not say that this exclusion is the effect of design: it is more respectful to view it as the result of the application of a particular system—that of large districts—in favor of which there is, no doubt, much to be said, but which I consider objectionable in the present state of the public mind, inasmuch as party minorities are sacrificed in its application; and we all know how acutely sensitive the public feeling is to such considerations; more so perhaps than to those of any other description whatever they may be.

As for myself, personally, I care not a copper about the result of the motion. I am not an aspirant after senatorial honors; and if I know myself I would not stretch out my hand to clutch them were they within its reach. I am actuated solely by a sense of duty, and I call upon the gallant protectors of minorities to come to the protection of a minority in distress, confident that their chivalrous feelings will move them to respond to the call.

Mr. Roman suggested that the house was thin, and requested the delegate from Ascention, (Mr. Trist,) to defer his motion until twelve o'clock, m.

Mr. Trist assented.

Mr. Taylor of Assumption, submitted the following section, viz;

At the general election, in the year ——, and every—— year thereafter, a poll shall be opened and taken in every election district in the State, as to the expediency of calling a Convention; and in the event a majority of all the qualified electors in the State shall vote in calling a Convention, the general assembly shall, at their next session, call a Convnntion, to consist of as many members as there shall be representatives in the house of representatives, to be chosen in the same manner and proportion as the said representatives, at the general election next thereafter ensuing, and to meet within six months after their election, for the purpose of re-adopting, amending or changing this constitution.

A question of order being raised, viz:

Whether the above section was not in direct conflict with the section adopted in the article providing for the mode of revising the constitution, and consequently out of order.

Mr. Labauve in the chair, decided that the section was not in order.

Mr. Taylor of Assumption, appealed from the decision of the chair.

The decision of the chair was not maintained.

Mr. Guion moved to lay said section on the table indefinitely. It was useless, said Mr. G. The people had a right, independent of any constitutional provision, to call a convention, when they pleased.

The yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquie, Brumfield, Burton, Cade, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, DuBouchel, Eustis, Guion, Hudspeth, Kenner, King, Legendre, Lewis, McCallop, Marigny, Ma-

zueau, Roman, Sellers, Stephens, Voorhies, Wadsworth, Winchester and Winder voted in the affirmative—32 yeas; and

Messrs. Brazeale, Brent, Briant, Chambliss, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McRae, Mayo, Peets, Porter, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soule, Splane, Taylor of Assumption, Trist, Waddill and Wederstrandt voted in the negative —27 nays.

Mr. Waddill submitted the following section:

No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in case of fraud; nor shall any person be imprisoned for a military fine in time of peace.

Said section was laid on the table, subject to call.

On motion of Mr. Ledoux, the fifth section of the general provisions was reconstdered.

Sec. 5. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money for the support of an army be made for a longer time than one year. A regular statement and account of the receipts and expenditures of the public monies shall be published annually, in such manner as shall be provided by law.

Mr. Ledoux moved to amend the foregoing section by striking out in the third line the words "for the support of an army," and in the fifth line he proposed to strike out "one," and substitute "two," as the legislature met biennially.

Agreeably to previous notice, Mr. Sellers moved to reconsider the vote adopting the eighth section of the legislative article, for the purpose of proposing an amendment, that the payment of a poll tax be essential to the exercise of the right of suffrage. The said poll tax to be appropriated to public education.

Mr. Chinn opposed the reconsideration. It was contrary he considered to the wishes of the people to impose any such restriction upon the right of suffrage.

The motion to reconsider was lost.

It being twelve o'clock, Mr. Trist, moved to reconsider the vote forming one senatorial district of St. James and Ascention.

The ayes and nays were called for,

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, DuBouchel, Downs, Eustis, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soule, Splane, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt and Winder voted in the affirmative—34 yeas;

Messrs. Benjamin, Boudousquie, Bourg, Briant, Chinn, Claiborne, Culbertson, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, St. Amand, Saunders, Sellers and Winchester voted in the negative—26 nays.

Whereupon Mr. Trist moved to amend the clause as follows:

The parish of St. James shall constitute one district, with one senator; and the parish of Ascension one senatorial district, with one senator.

Said amendment was adopted, and the section was then re-adopted.

Mr. Brent moved for the reconsideration of the third section of the article upon the judiciary, fixing the salary of the judges of the supreme court. He stated that his object was to move to reduce the salary to five thousand dollars for the chief justice, and four thousand five hundred for the associate judges.

The yeas and nays were called for upon the vote to reconsider:

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Dunn, Hudspeth, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Porter, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens and Waddill voted in the affirmative—28 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garrett, Guion, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Pugh, Roman, St. Amand, Soulé, Splane, Taylor of Assumption, Trist, Voorhies, Wederstrandt Winchester and Winder voted in the negative—33 nays.

Mr. Claiborne moved to reconsider the

vote adopting the section offered by Mr. PORTER, making all parish officers not provided for in the constitution, elective.

Mr. CLAIBORNE observed that it was not his design to discuss the merits of the question in relation to the country parishes; but he deemed it not out of place to state that the people of New Orleans and their delegation in this body, with a single exception, and the gentleman alluded to only partially differs with his colleagues are opposed to a popular election of parish officers as far as they are concerned. They are thoroughly persuaded that however well it may answer in the country, it would be extremely inconvenient and troublesome in the city.

Mr. KENNER said that if an exception were to be made in favor of New Orleans, he would ask that the same privilege be accorded to the parishes of Ascension and St. James. He was averse to these exceptions, and would infinitely prefer that the section should be rejected.

Mr. BOUDOUSQUIE moved a like exception for the county of the German Coast.

Mr. BENJAMIN remarked that nothing was intended to be proposed by the Orleans delegation in relation to this matter, as far as it affected the country parishes, because from the decisive majority by which the section was passed, it was apparent that any effort towards that object, would be ineffectual. The people of the city desired to be excepted from the operation of the principle. They were clamorous for that exception because they were convinced, that however well it might operate in the country, it was totally unsuited to the city. He was not disposed to controvert the opinions of gentlemen from the csuntry parishes, in favor of the measure, it might suit very well, where the people were known to each other and where the population was sparse, but in the city where there were so large a number of local officers to be appointed, it was out of the question. The objections to its application to the city were overwhelming. When the proposition came up (continued Mr. Benjumin) for the election of public officers by the people, *viva voce*, I opposed it, because I considered it physically impossible to apply the principle to the city. I have since thrown together with little consideration the various offices in the city for the purpose of forming an estimate, and I find there are one hundred and fifty-six offices, that is to say there would have to be one hundred and fifty-six persons voted for in the city. There is the governor and lieutenant governor, four senators, twenty representatives, one sheriff, six or eight justices of the peace, a score of notaries, and a number of other offices that would have to be filled by popular elections. It would keep the people in constant occupation. There would not be a lucrative office for which there would not be several candidates; these candidates would have severally their friends and partizans,; there would be intriguing and electioneering for months before the canvass opened, the city would become a mass of confusion and would be converted into a grand battle-ground for contending factions. But this would not yet be all; there are other objections. There are forty-three notaries in the city. The appointment of a notary is no better than the diploma of a lawyer; to have a lucrative practice in either one must establish a reputation. The business of a notary depends upon his skill and the confidence he may inspire in that skill. In the country parishes, where there are but one or two notaries, the community have little choice; but in the city where there is a great many, the case is different. It so happens that in the city, five or six notaries do the mass of the business, because they are in the enjoyment of the public confidence, and because the ancient titles of property are to be found in their offices. Even with the existing system some inconvenience is felt, in hunting up titles. The titles of a notarial are retained by the individual succeeding to the appointment. This is the rule, and yet it is not free from inconvenience. What will it be when the office is to be renewed every four or five years? Where are the titles to property to be found? Who is to take the books of this or that notary: the books of A. B. and C.? Are the successful candidates to draw lots? But if to avoid this, the electors shall designate on their tickets, who is to be the successor of each particular notary, and there are twenty notaries to be elected, it will require a quire of paper to write down the various designations, and two weeks to count the votes. Full nine-tenths of the people of New Orleans are convinced of the absurdi-

ty of the principle when applied to the city. I hope, therefore, that the reconsideration will be ordered, and that the city will be exempted.

Mr. CULBERTSON said he was in favor of the election of some of the parish officers by the people, but not of all. He would readily vote to exclude from the popular election the offices of notaries, and perhaps one or two other offices, but with that reservation, he was in favor of the principle of popular elections in the city as well as in the country; for if it was good for the one, it was reasonable to conclude it was good for the other; and if bad, it was certainly bad for both.

Mr. LEWIS said he was distinctly opposed to the sweeping clause, that all parish officers should be elected. He thought there were some parish officers that would be advantageously elected by the people, and those he would have expressly named. But he was averse to the principle of one rule for the city and another for the country. He would vote for the reconsideration, if it were understood that the section was to be modified and be made general in its operations.

Mr. READ said he had designed voting for the reconsideration; but upon reflection he thought it would open the floodgates for other exceptions, and he would therefore vote no.

The yeas and nays were asked for upon the reconsideration.

Messrs. Beatty, Benjamin, Bourg, Boudousquie, Brazeale, Briant, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garrett, Guion, Humble, Hynson, Kenner, Labauve, Ledoux, Legendre, McCallop, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Roman, Scott of Baton Rouge, Scott of Madison, Sellers, Soule, Splane, Taylor of Assumption, Trist, Voorhies, Wederstrandt, Winchester and Winder—voted in the affirmative; 46 yeas; and

Messrs. Bourg, Brent, Brumfield, Covillon, Dunn, Hudspeth, Lewis, McRae, Preson, Read, St. Amand, Scott of Feliciana, Stephens and Waddill, voted in the negative; 14 nays.

The section was then taken up, as follows:

All parish officers not otherwise provided for by this constitution shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law.

Mr. CLAIBORNE moved to amend said section by adding at the end of the same the following proviso, viz:

Provided, that the mode of appointment and the tenure of office of all officers in the parish of Orleans shall remain as heretofore, unless otherwise provided by the legislature.

Mr. BOUDOUSQUIE moved to amend said proviso by inserting after the word "Orleans," the words "German Coast."

The yeas and nays being called for,

Messrs. Boudousquie, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Hudspeth, Kenner, Legendre, Lewis, Roman, St. Amand, Sellers, Taylor of Assumption, Wadsworth and Winchester voted in the affirmative—18 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Claiborne, Cénas, Chambliss, Conrad of Orleans, Covillion, Downs, DuBouchel, Eustis, Garrett, Guion, Humble, Hynson, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soule, Splane, Stephens, Trist, Voorhies, Waddill, Wederstrandt and Winder voted in the negative—44 nays.

Mr. KENNER moved to amend said proviso by adding at the end of the same the following amendment, viz:

And that the register of conveyances, register of mortgages, and notaries public for the State at large, shall be appointed as the legislature may direct.

The yeas and nays being called for,

Messrs. Beatty, Boudousquie, Bourg, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Garcia, Guion, Kenner, Labauve, Legendre, Lewis, Pugh, Roman, St. Amand, Saunders, Splane, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder voted in the affirmative—24 yeas; and

Messrs. Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Cenas, Chambliss, Claiborne, Conrad of Orleans, Co-

villion, Downs, DuBouchel, Dunn, Eustis, Garrett, Grymes, Hudspeth, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soule, Stephens, Voorhies, Waddill and Wederstrandt voted in the negative—40 nays.

Mr. F. B. CONRAD moved to include the the parish of Jefferson. He said his constituents were as much opposed to the system of electing all their parish officers as were the people of the city of New Orleans. He considered himself instructed upon that point by the known wishes of his constituents.

The previous question was called and sustained on Mr. CONRAD's motion to exclude the parish of Jefferson.

The yeas and nays being called for,

Messrs. Boudousquie, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Kenner, Legendre, Lewis, Pugh, Roman, St. Amand, Taylor of Assumption, Wadsworth and Winchester voted in the affirmative—17 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brumfield, Burton, Cade, Cenas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Downs, DuBouchel, Eustis, Garrett, Grymes, Guion, Hudspeth, Humble, Hynson, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Voorhies, Waddill Wederstrandt and Winder voted in the negative—45 nays.

When Mr. PRESTON's name was reached, that delegate said that he voted no, because he differed from the opinion expressed by his colleague (Mr. Conrad,) that the people of Jefferson were averse to the election of all their public officers. His colleague had said, he felt instruced by the known wishes of the people. I think, said Mr. Preston, that my colleague has misunderstood the popular sentiment of our common constituents upon his point. I avowed my feelings and views upon this very topic at public meetings, in private conversations, and on every occasion to my fellow-citizens. I declared I was in favor of the election of all parish officers by the people even including the parish judge; and I received, notwithstanding these avowals, a few more votes than were ever given to any candidate in that parish. I therefore am forced to the conclusion that my colleague is in error when he asserts that the people of Jefferson are in favor of his amendment. As to the difficulties growing out of the election of notaries public, spoken of by the delegate from New Orleans, (Mr. Benjamin) I consider it a perfect bug-bear. Notaries could just as well be licensed as lawyers or as physicians.

Mr. CLAIBORNE moved for the adoption of his proviso.

Mr. M. TAYLOR said he was in favor of the election of several parish officers. He was in favor of the election of sheriffs and certain special officers. But, he was apprehensive that the session was too far advanced to act calmly and understandingly upon this matter. He was fearful the Convention would act with too much haste. It would therefore, to his judgment, be much better to reject the section altogether, and leave the subject to the judgment and wisdom of the legislature.

Mr. CLAIBORNE moved for the adoption of the proviso.

The yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Derbes, Downs, DuBouchel, Eustis, Grymes, Guion, Humble, Hynson, Ledoux, Legendre, McCallop, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Pugh, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soulé, Splane, Taylor of Assumption, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—46 yeas; and

Messrs. Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Hudspeth, King, Labauve, Lewis, McRae, Preston, St. Amand, Scott of Feliciana, Stephens and Waddill voted in the negative—15 nays.

Mr. CULBERTSON stated in giving his vote that he was willing to exclude from the operation of the section, notaries, the recorder of mortgages and the clerks of

courts, but as the proviso embraced all parish officers, he felt compelled to vote against it.

Mr. Garcia said he voted against the proviso, because if the principle in the section were a good one, the city ought to have the benefit of it. And if it were bad, it ought not to be applied to the country any more than to the city.

Mr. Lewis would state briefly the reasons why he recorded his vote in the negative. He was in favor only of certain parish officers being excepted from the principle. If that could have been done generally, in regard to the whole State, it would have met his approbation. But he could not think of countenancing local exceptions in the constitution. It was bad enough in our legislation, but still worse in the constitution.

Mr. Wadsworth said he should have liked to have seen the city of Lafayette included, because similar reasons existed for her exclusion, and these reasons were valid. But it was no motive with him, because the city of Lafayette was not included, that the city of New Orleans should lose the benefit of the proviso.

Mr. Claiborne asked for the adoption of the section, and the yeas and nays were called for,

Messrs. Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Downs, DuBouchel, Eustis, Humble, Hynson, Ledoux, Legendre, McCallop, McRae, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Preston, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Trist, Voorhies, Wederstrandt and Winchester voted in the affirmative—39 yeas.

Messrs. Beatty, Boudousquie, Bourg, Briant, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Lewis, Roman, St. Amand, Splane, Taylor of Assumption, Waddill, Wadsworth and Winder voted in the negative—23 nays.

Mr. Benjamin declared he was opposed to the principle contained in the section. He thought it wrong. It did not meet his concurrence, and the only reason why he voted for it, was because it appeared to be understood that if the section were reconsidered, he was to vote for its re-adoption. Nothing he had said could give rise to that impression, but inasmuch as it prevailed, to avoid the remotest suspicion of bad faith, he voted in the affirmative.

Mr. Claiborne expressed a similar repugnance to the principle. But when he introduced his proviso, he declared it was not his intention to interfere with the section further than to make an exception in favor of the city. The section had been reconsidered by the votes of those favorable to the principle, the exception had been made, and now he voted to put the section where it was before the reconsideration. If the question had come up in its original form, he would have voted against the section, as on a previous occasion.

Mr. C. M. Conrad said he was opposed to the principle, and thought it good neither for city nor country. But he voted yea, because he wished to place the section in *statu quo ante-bellum*.

Mr. Culbertson said he voted in the negative on account of the proviso.

Mr. Dunn voted against the section, because dispositions in the constitution ought to be general.

Mr. Scott of Feliciana said he voted against the amendment, but he voted in favor of the section with the amendment, rather than that the section should be lost.

Mr. Miles Taylor said he voted in the negative chiefly on account of the exception. He had voted for the amendment through inadvertance.

Mr. Winchester voted yea, to move the reconsideration to-morrow.

Mr. Prescott of St. Landry said he voted for the section with the exception, because he considered that the city of New Orleans, from certain peculiarities, belonging to a large and populous city, ought to be excepted from the principle.

Mr. Boudousquie voted nay, because the section did not meet his concurrence, and because there was no greater reason to except the city of New Orleans than other parishes, for which their representatives had asked an exception.

Mr. Marigny asked for the reconsideration of the section, excluding the city of New Orleans from being the seat of government.

Mr. Garcia enquired what was the vote

when the proposition was originally carried. The secretary replied that there were 39 yeas and 28 nays.

The question was taken on Mr. Marigny's motion, and the yeas and nays were called for; 26 yeas, 36 nays.

Mr. WADDILL called up the following section, offered by him:

"No person shall be imprisoned for debt in any action, or any judgment founded upon contract, unless in case of fraud; nor shall any person be imprisoned for a militia fine in time of peace."

Mr. GARRETT moved to lay said section on the table indefinitely.

Mr. DOWNS said he would vote in favor of the motion to lay the section indefinitely on the table, because a law existed for the abolition of imprisonment for debt. It was better to leave the subject under the control of the legislature, inasmuch as they disposed of it.

Mr. MILES TAYLOR said this was one of the few matters that he desired to see placed beyond legislative control.

Mr. BENJAMIN said he was opposed to laying the section on the table. It was a matter affecting the liberty of the citizen, and was therefore well worthy of the consideration of this body. He was decidedly against imprisonment for debt, except where fraud could be shown, and thought the exemption should be recognized in the constitution as a personal right, except in cases of fraud.

Mr. C. M. CONRAD thought there was no necessity for a constitutional provision. There was no imprisonment for debt in this State, except for fraud.

Mr. LEWIS would state the reason why he was opposed to the section. When a member of the legislature he had advocated and voted for the law abolishing imprisonment for debt. Subsequent experience had convinced him that it was one of the greatest sources of fraud.

Mr. GARRETT said he had moved to lay the section on the table, because he thought it unnecessary, inasmuch as the legislature have disposed of the subject.

The yeas and nays were called for on Mr. Garrett's motion to lay the section indefinitely on the table:

Messrs. Beatty, Boudousquié, Brazeale, Brumfield, Burton, Cade, Cénas, Chambliss, Conrad of Orleans, Conrad of Jefferson, Covillion, Downs, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McCallop, Mayo, Peets, Pugh, Roman, Saunders, Scott of Feliciana, Sellers, Stephens, Taylor of St. Landry, Voorhies, Winchester and Winder voted in the affirmative—33 yeas; and

Messrs. Benjamin, Bourg, Brent, Chinn, Claiborne, Culbertson, Derbes, DuBouchel, Dunn, Eustis, Garcia, Hynson, McRae, Marigny, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Madison, Soulé, Taylor of Assumption, Trist, Waddill and Wederstrandt voted in the negative—24 nays.

The Convention then took up the subject of taxation.

Mr. C. M. CONRAD had offered the following provision:

"Taxation shall be equal and uniform throughout the State."

To which Mr. GARRETT offered the following amendment, viz:

"All property subject to taxation in this State, shall be taxed in proportion to its value, to be ascertained by law. No one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value and subject to taxation."

Provided, The legislature shall have power to tax merchants, hawkers, pedlers, privileges or incomes, in such manner as may from time to time be prescribed by law.

The question under consideration at the adjournment, was the following substitute, offered by Mr. Taylor of Assumption, viz:

"The revenue of the State derived from taxation shall be assessed equally upon all the property of the State, according to its value, ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property shall be taxed higher than another species of property of equal value.

Mr. LEWIS said that when the substitute was first read, he thought it more concise than the proposition of his friend from Ouachita (Mr. Garrett). But upon examination, he apprehended that it carried the taxing power too far. It requires every species of property to be taxed. That is going too far. Some property may be taxed, while it will be extremely inconve-

nient to tax other property. As the delegate from New Orleans (Mr. Conrad) had observed, it would not only be inconvenient but impracticable to carry out the plan. It was better to leave the legislature to determine from what sources the revenue should be raised, and only to provide that the taxation imposed should be equal, that it should be in the ratio of the value of the property subject to taxation. But to prescribe that all property should be taxed would require an inquisitorial inspection of a man's personal property, of the wardrobe of his family, of his bed and beding, and even an insight ito the barn-yard, to count the ducks and chickens. This was certainly goin too far. It was going far enought to declare that taxation should be equal, leaving it to the legislature to determine the species of property which should bear the burdens of taxation.

Mr. Taylor of Assumption, replied that he never dreamed that in practice it would result that the assessors would have to rate the poultry in a barn-yard, or to inspect a man's dwelling to ascertain the number of his sheets. He believed the principle embraced in his substitute to be correct. The original proposition did not touch and could not remedy the evil. It provides only that such property as may be taxed, in proportion to its value; it clearly leaves the legislature with a discretionary power to discriminate, to select one species of property and not another. This is the actual system which has been in practice ever since the organization of the government; and what has been the result of that system? That a small amount of taxation has been laid upon one kind of property of greater value, while a heavier amount of taxation has been laid upon another kind of property of less value. This has particularly been the case in relation to slaves. In the second place, a revenue is derived from some particular trades and professions, while others are not taxed at all, or but trivially taxed.

Again, moveable property, money loaned and stock in trade, are not taxed at all. The inequality and partiality of the present system cannot be justified. I defy any one, said Mr. T., to tell me why the capital of a planter should be subject to heavy burdens of taxation, while an equal amount of capital, if employed in loans or in trade, is not subject to be taxed at all? If a man have one hundred thousand dollars invested in slaves, an arbitrary tax, not based in proportion to their value in reference to other property, is laid, but the capitalist is free to invest the same amount, and to realize from it a much heavier interest, without contributing one cent to the public burdens.

The proposition of the delegate from Ouachita (Mr. Garrett) will only compel the legislature to pay some respect to the relative value of land and slaves in the imposition of taxes; but the legislature may confine the revenue to these two sources. What is to prevent it? What has experience shown us? A few years ago there was a deficit in the treasury; what did the finance committee do? Did they propose the imposition of a tax upon moveables? No, sir, they increased the taxes. The same course will continue to be followed. The only correct system is to impose a tax upon all kinds of property; make it all contribute in proportion to its value. The burdens of taxation will then fall equally.

Mr. Conrad of Orleans, objected to a system of taxation in the constitution which would be immutable. No constitution should attempt any thing of the kind. It might become onerous. The matter of taxation must be regulated by the variable changes in society. If you attempt a system, and make that system perpetual, you may bear with peculiar hardship upon the poorer classes. The expression, "all the property of the State," was equivocal. He presumed the mover meant all the property in the State. That would include not only poultry in the barn-yard, but every thing else of any value. The planter would not only have his slaves and his land taxed, but his tools, and even the very crop after it was gathered, for it was property, just as much as his negro or his horse. The soil and labor would not only be taxed, but the product of the soil. There is no stop nor limit to the principle. It would require a swarm of tax collectors, and the system would even be still more burdensome than that pursued in England.

At the first blush he had been disposed to consider the proposition of the delegate from Ouachita (Mr. Garrett) a good one, without the proviso. As to the proviso, it was useless. The legislature necessarily should have a discretionary power as to

the property to be taxed. The general principle that taxation should be equal and uniform, was a good one. In asserting that principle, the constitution went sufficiently far. In other respects the legislature should have full power.

Mr. WADSWORTH said that the delegate from New Orleans (Mr. Conrad) appeared to be frighened at shadows. There was no ground for the construction that the product of the property, as well as the property itself, were subject to taxation under the substitute. Taxation, as he understood it, would be imposed upon the property in proportion with its productiveness, that is to say, in reference to the revenue derived from it. And if a tax were imposed upon chickens, which the gentleman apprehended as one of the results, the tax would be graduated upon the revenue derived from them. He did not understand the substitute in any other way. As to the propriety of taxing actual capital in money, it was as proper a subject of taxation as slaves or lands; and it should be subject to taxation just as much as if it were converted into those sources of revenue.

Mr. EUSTIS said he approached this subject with a great deal of deference for the opinions of gentlemen who had spoken upon it. It was one of the most difficult and abstruse subjects of legislation, and had engaged the attention of the ablest minds, the penetrating judgments of men of the keenest intelligence, for years. The income tax in England was a matter of great perplexity to her statesmen. He was sorry that we had neither the time nor the means of reaching this question understandingly. It was better to take the sense of the house upon the principle that "taxation should be equal and uniform." That was as far as we could go. He would move to lay the other propositions indefinitely on the table.

Mr. MAYO called for the previous question; which was sustained.

Mr. PORTER was in favor of laying Mr. Taylor's substitute on the table, but not the proposition presented by Mr. Garrett. He, therefore, moved for a division of the question, that is, to take the vote on the substitute; which motion prevailed.

The yeas and nays being called for, to lay the substitute on the table indefinitely, resulted as follows:

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Read, Roman, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Voorhies, Wederstrandt and Winder voted in the affirmative—39 yeas; and

Messrs. Bourg, Briant, Cade, Garcia, King, Mazureau, Preston, Scott of Baton Rouge, Taylor of Assumption, Taylor of St. Landry, Trist, Waddill, Wadsworth and Winchester voted in the negative—14 nays.

Mr. WINDER presented the following resolution:

"*Resolved*, That for the balance of the session the Convention shall hold evening sessions; and that the secretary be empowered to employ as many clerks as he may deem necessary to keep up the proceedings."

Whereupon the Convention adjourned.

WEDNESDAY, MAY 7, 1845.

The Convention met pursuant to adjournment.

The proceedings were opened with prayer from the Rev. Mr. CLARK.

Mr. WINDER stated that having voted with the majority upon the question to establish the parish of Orleans into a single senatorial district, and having upon mature reflection come to the conclusion that it would be better to divide the parish into a plurality of senatorial districts, he would move for the reconsideration of that vote, and that the reconsideration be had when the city delegation shall be in full attendance.

The PRESIDENT appointed Mr. Boudousquie a member of the committee on enrolment, in place of Mr. Roman, who asked to be excused from serving on that committee, as his time was monopolized as a member of the committee on revision.

ORDER OF THE DAY.

GENERAL PROVISIONS.

Additional section, offered by Mr. C. M. CONRAD:

"Taxation shall be equal and uniform throughout the State."

Mr. GARRETT's amendment to the above was taken up in connection:

"All property subject to taxation in this State, shall be taxed in proportion to its value, to be ascertained by law. No one species of property, from which a tax may be collected, shall be taxed any higher than another species of property of equal value, and subject to taxation.

"*Provided*, That the legislature shall have power to tax merchants, hawkers, pedlers, privileges or incomes, in such manner as may from time to time be prescribed by law."

Mr. EUSTIS said he would propose to lay the proposition of the gentleman from Ouachita (Mr. Garrett) indefinitely on the table. He conceived that the house were not prepared to act upon so difficult a question, and he was averse to details in a constitution. When you say that all property shall be taxed, it is clear you comprehend moveable property as well as immoveable property. But what means have you of reaching mooveable property? The unscrupulous man will evade the tax, while the burden will fall upon the fair-dealing man, who will frankly avow all that he possesses. Your section will hold out inducements to perjury, for implicit reliance will, from the necessity of tho casc, have to be placed in the oath of the party. I say this, continued Mr. Eustis, without the slightest disrespect. This subject is one of the most difficult in legislation; it is certainly not a proper time at the close of our labors to pass upon it. In no constitution is a similar clause to be fund. It will be attended with inconvenience, embarrassment, and other unfortunate results. The only principle we can act upon and embody in the constitution, is that offered by my colleague (Mr. Conrad), that taxation shall be equal and uniform. That provision is sufficient. We cannot go beyond it with safety, and if we go no further we shall act wisely and discreetly. These are my convictions, briefly expressed. I do not propose to discuss the principle, I think it no time even to discuss it, much less to give it a place in the constitution.

Mr. GARRETT said that had the gentleman from New Orleans (Mr. Eustis) have examined this question with his usual penetration, he would have seen that it was not subject to his objections. It was to provide against the very evils which the delegate had himself suggested. It does not require that the legislature shall impose a tax upon every species of property, as the proposition of the delegate from Assumption (Mr. Taylor). It only requires equality in taxation upon the property which the legislature may, in their wisdom, designate as sources of revenue. It requires only that taxation should be imposed strictly upon the *ad valorem* principle. As to the proposition of the delegate from New Orleans, (Mr. Conrad) it is good as far as it goes, but it does not go sufficiently far.

Mr. TAYLOR of Assumption, said he deemed it proper to say something, in consequence of what fell from the gentleman from Ouachita (Mr. Garrett), in relation to the proposition which had been laid indefinitely on the table yesterday. That provision, said Mr. T., laid down an imperative rule. It compelled the legislature to pursue what I considered a proper policy. I preferred it to the present proposition, because it is more explicit.

It strikes me, continued Mr. Taylor, from what fell from the delegate from New Orleans (Mr. Eustis) this morning, and what fell from his colleague (Mr. Conrad) yesterday, that it is a part of a system, that whatever is regarded with great favor by the majority of the house, is considered an enormity by the city delegation, when applied to New Orleans. They are willing enough to lay the burdens of taxation upon land and slaves, because it falls principally upon the people of the country. But when it is proposed to tax moveable property, they raise an outcry against it. They regard such a tax with particular aversion. It is thus with every thing else. Delegates from the city have no objection that the country should bear the burdens of the most onerous taxation, provided the city be excepted. They will unite to rule us, if forsooth, we consent to except the city. The moment we speak of a tax upon personal property we are told, it will not do. Thus, capital embarked in trade, and otherwise, is to be left untouched, because the tax would fall principally upon the city, as the tax upon land and slaves falls chiefly upon the country. We are told that it

is inquisitorial, and that the people will not submit to taxation on personal property. There is no country in the world where moveable property is not subject to taxation. It may be difficult to reach some species of personal property subject to taxation; but there are other species that is as tangible, as open to the sight, as immoveable property. As to capital, and things which may escape apprehension, as money, the conscience of the party may be probed by an oath. I cannot see any objections to that. The gentlemen have failed to convince me why taxation should be derived from immoveable property alone, while personal property should be exempted altogether. I can see no reason for it, unless it be intended to favor the city at the expense of the country.

The question under consideration at the adjournment was the motion of Mr. Eustis to lay the several propositions, with the exception of Mr. Conrad's, indefinitely on the table. Mr. Porter had called for a division. The question pending was to lay Mr. Garrett's proposition on the table indefinitely.

Mr. Garrett moved for a division, in putting the question, so that each clause might be acted upon separately, which motion prevailed.

The question was taken on the proviso, and the house refused to lay it on the table.

The question then recurred on laying the following portion of the proposition upon the table, and was lost:

"All property subject to taxation in this State, shall be taxed in proportion to its value, to be ascertained by law. No one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value, and subject to taxation."

Mr. Mayo said, when this proposition was first presented, he was disposed to view it favorably, and thought he should vote for it; but the remarks of members that had been made upon the subject, had inclined him to doubt the propriety of doing so. It was a subject of great importance, and contained a principle which he believed correct; but he feared it might be found impossible for the legislature to carry it into pretical operation.

The section, as it now stands, provides that "all property *subject to taxation* shall be taxed according to its value." This would certainly include all property on which the legislature has a right to impose a tax—all the property, of every description, in the State. This may be remedied by striking out the words "subject to taxation," and inserting the words "on which a tax may be levied." If these words be substituted, so as to make the provisions least objectionable, there will still exist insuperable objections, I apprehend; and it is this *apprehension* that induces me to oppose it. How can this valuation be made? It must, I think, be made, either by the assessor swearing the owner of the property, or by appraisers appointed for that purpose. Suppose the first mode should be determined on by the legislature. The assessor asks me on oath, what my twenty slaves and one thousand acres of land are worth. I answer a certain sum, according to my notions of its value. I form my ideas of its value, from notions peculiar to myself. I do not want to sell, but to keep my property, and will probably, put a low estimate upon it. My neighbor is asked what his twenty slaves and thousand acres of land are worth. His notions of its value are formed from peculiar circumstances which are applicable to him and not to me. He wishes to sell his property, and is asking a high price for it, and he in giving a valuation of it, honestly and conscienciously estimates it to double the amount at which I have estimated mine, which is of equal value. This will necessarily make the taxes, as between myself and my neighbor, very unequal. But suppose the appraisement to be made by appraisers appointed for that purpose. It will certainly be very expensive to pay appraisers to go through every parish, and see all the land, slaves, and other property that is to be taxed, in order to appraise it; and if they do not, they cannot make correct appraisements. But suppose they do go through the parish and make their appraisement, and that they, intending to make a correct appraisement, make one that is palpably incorrect. We have provided by another section that all questions relating to taxes may be taken, by appeal, to the supreme court. Now, suppose that either myself or my neighbor can prove that the appraisement

is unequal; that the property which has been assessed and taxed as being worth a given sum, is worth but half that sum, or that it is worth double the sum, and should prove it, which is not an improbable case. It appears to me that he could make a very plausible constitutional case of it, and if aggrieved, could get relief. This is the very object of the constitutional provision; and if this be true, it does appear to me that it presents a difficulty that would render it impracticable to carry this provision, if made a constitutional one, into effect.

I must repeat, sir, that I am in favor of the principle contained in the provision; but I fear that it may be found impracticable to carry it into operation, and for that reason alone, I feel myself constrained to vote against it; and especially as the legislature will have the subject fully in their power, if we make no provision.

Mr. Roman said that the subject was very important, and if we made a false step, the consequences would be irretrievable. He would therefore, propose to refer the whole matter to a special committee.

Mr. Porter said that the delegate from New Orleans (Mr. Eustis) was mistaken in the opinion that a similar clause to the one now before the house was not to be found in any constitution. The principle of an *ad valorum* tax was to be found in most constitutions. Something had been said about the difficulty of getting at the value of personal property. He could see nothing valid in this objection: The assessors could place the parties under oath. That was done at present. The present system has manifestly operated partially. It is clearly unjust to make a man with five thousand dollars worth of property contribute as much as a man who has ten thousand dollars worth. That is an evil that ought to be remeded, and unless we pass the section, we have no hopes of any salutary reform in the system of taxation. It was similar in its phraseology to clauses on the same subject in other constitutions.

The question was taken on Mr. Roman's motion to refer, and it was lost.

Mr. Chinn said he thought it was too late in the session to dispose of this subject as it ought to be disposed of. Moreover, he did not think it necessary. The legislature have ample power. I will move you, Mr. President, that it lay indefinitely on the table.

The President said this motion was not in order. It had already been put and lost.

Mr. Brent moved to add the words "all other moveables."

Mr. Eustis said that in conceding to the views exposed by the delegate from West Baton Rouge, (Mr. Chinn) his assent, he would ask whether the legislature had the power to tax privileges?. If they have, they may extinguish privileges by taxation.

Mr. Waddill moved to amend Mr. Conrad's section by adding after the word "State," the words "on all moveable and immovable property."

His amendment was lost.

Mr. Lewis moved to amend Mr. Garret's proposition by striking out in the first line the words "subject to taxation" and insert in their stead, the words "on which taxes shall be levied," and in the last line, to strike out the words "subject to taxation," and insert the words "on which taxes shall be levied."

These amendments were adodted.

Mr. Labauve moved as a further amendment, to insert in the third line, after the word "ascertained," the words "as directed," which motion also prevailed.

Mr. Lewis called for the question upon the proposition down to the word "provided."

Mr. Benjamin said that if the proposition were not modified, it would bring the government to a stand still. Why, if you ordain that all property shall be taxed, it is evident that taxation upon any particular property is unconstitutional, the very moment it can be shown that the principle has not been applied generally, that some particular property has been excepted from the general and imperitive rule. To obviate that result, he would propose the following substitute:

"All property on which taxes shall be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value, on which taxes shall be levied."

Mr. Winchester suggested whether it

was not absolutely necessary to delay the operation of the principle until the year 1848. It might be understood as applying to the present mode of collecting the revenue of the State, and give rise to serious difficulties.

Mr. PUGH considered it to be unnecessary to prescribe the period for the operation of the principle; it could not be operative, until provided for by law.

Mr. PORTER said this matter would be regulated by the first legislature convened under the new constitution. It should be left to the legislature to apply the principle at as early a period as practicable.

Mr. WINCHESTER would make one observation. The question had been discussed in the legislature, in relation to this very matter, of equality in taxation. It was proposed by the finance committee to appoint assessors to assess the property in all the parishes. It was discovered that this plan would cost more than the advantages it would confer were worth. Those parishes that would act strictly would pay more than those that would pursue an opposite course. On that account, it was abandoned. It was clear that some time would have to elapse before the legislature would be enabled to establish, and in the mean while the present mode of collecting the taxes would be unconstitutional. Hence it was that he proposed that the principle should not take effect until 1848. That was as early a period as could be assigned.

Mr. MAYO said that this was a strange argument against the adoption of the whole section.

Mr. WINCHESTER moved to amend said substitute by adding at the commencement of the same, the words "after the year 1848," which amendment was accepted by Mr. Benjamin and adopted.

Mr. BENJAMIN moved for the adoption of the substitute as amended, to-wit:

"After the year 1848 all property on which taxes shall be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value on which a tax shall be levied."

The yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Brumfield, Cade, Carriere, Chambliss, Covillion, Culbertson, DuBouchel, Dunn, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Lewis, McRae, Peets, Porter, Prescott, of St. Landry, Preston, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, and Wikoff voted in the affirmative—36 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Burton, Cenas, Chinn, Claiborne, Derbes, Downs, Eustis, Guion, Labauve, Legendre, Marigny, Mayo, Pugh, Roman, St. Amand, Sellers, Wadsworth, Winchester and Winder voted in the negative—24 nays.

Mr. BENJAMIN offered as a substitute te the proviso, the followiug:

"The legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession."

Mr. LEWIS was in favor of striking out the proviso altogether.

Mr. BEATTY considered that the legislature had the power to impose such a tax without the proviso.

Mr. BENJAMIN wished the tax on trades and professions to be general, not to be applied to one clause, and not to another.

Said substitute was adopted.

Mr. GARRETT moved for the adoption of the section as amended.

Mr. DOWNS said that the section contained a most extraordinary provision. According to it, there must be a precise equality; the tax must be identical, otherwise its imposition will be unconstitutional. He looked upon it as attended with great inconvenience and difficulty, in fact, he might say it was totally impracticable. It was inexpedient to make such an experiment, to say the least, for it would give rise to constant litigation, and the absence of equality in any one instance, would leave the treasury without resources. He was aware that the present system of taxation was liable to great objections, particularly in reference to slaves; but the remedy proposed, exacted what he conceived to be an utter impossibility. A precise equality in the imposition of taxes. All that ought to be reasonably expected, was as near an approach to equality, as was practicable.

What innumerable difficulties will present themselves in the assessments of property under the section! The best system of taxation is that based upon income, but the great difficulty is to ascertain what is the real income. The objection to that system is, that it is impracticable.

The legislature in 1842 endeavored, in laying the land tax, to proceed upon the principle of equality. They tried to arrive at an equality, and finally attempted to classify the lands into improved land, unimproved land, alluvial land, &c., but they found the whole matter attended with so much difficulty that they were compelled to abandon the design. As to appraisements, that is out of the question, as a means of producing equality. No two set of appraisers will act upon the same principle in every parish.

Mr. Brent said he felt some astonishment at the opposition made by the delegate from Ouachita (Mr. Downs) to a proposition so plain and simple, so just and equal. He considered that no well founded objections could be urged against it. The delegate from Ouachita labored under a misapprehension. The section did not require that taxation should be imposed on all kinds of property; it simply provides, that upon all the property upon which a tax may be levied, taxation shall be equal and uniform. Is there any thing impracticable in this? Is there any thing impracticable through sworn assessors to assess an equal *ad valorem* tax? But he tells us that the assessors will place different valuations. Admitting, for argument sake, that they do, and that there will be still inequalities, these inequalities will be insignificant when compared with the gross injustice which now prevails, and which is the result of a total disregard of the value of property. The evil will be slight, and will bear no comparison with the excessive difference in taxation that now exists between one parish and another. The power assumed by the legislature, to lay special taxes without reference to the value of the property taxed, has led to great and crying abuses.

A similar provision to the present one is to be found in most of the constitutions. In Tennessee taxation is imposed upon the identical same principle. Now, sir, how does it happen that it is practicable in Tennessee, and impracticable here? Is not the treasury of Tennessee as well supplied as our treasury?

The delegate from Ouachita (Mr. Downs) gravely admits that the principle is just and fair, but he says it cannot be carried into effect. Now it really strikes me, said Mr. Brent, that this objection has not the slightest weight. The gentleman has adduced the land tax of 1842 for the purpose of showing the great difficulty encountered in laying an *ad valorem* tax upon land. What was done, in reference to that tax, by the legislature? Instead of acting upon a just principle, they decided arbitrarily that Layfayette should pay two thousand dollars land tax, St. Landry five thousand dollars, Rapides six thousand dollars, without the slightest reference to value. Had they adopted the principle of arriving at the value of the property taxed, there would have been no difficulty. In the State of Alabama there is a recognition of the same principle of taxation based upon land upon the value of property, and yet we have never heard that the government of that State has been brought to a stand still. The objections that have been urged to the section, have not the semblance of plausibility.

Mr. Dunn replied that under the section, if a tax was imposed upon a slave and it could be shown that the tax was greater than upon some other source of revenue of equal value, the tax would be null, it could not be collected, and the courts would so decide it.

Mr. Preston said that the principle was a just one. No court would declare that a tax was null if the principle was observed as far as possible. He could not see any weight in that objection. It would be infinitely easier to collect the revenue than by the present system. The property in the several parishes would be estimated, and according to the exigencies of the treasury, for the current expenses of the government, would a tax be laid of a certain per centum. As for the notion that taxation ought to be in proportion to income, that would not operate properly in some instances; for a rich man may have a great deal of unimproved property, which is increasing in value, which would escape taxation, while the labor of the poor man would be taxed.

The yeas and nays were called for upon the adoption of the section:

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Conrad of Jefferson, Covillion, Culbertson, Du Bouchel, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Lewis, McRae, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Madison, Scott of Feliciana, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—40 yeas; and

Messrs. Aubert, Beatty, Benjamin, Cénas, Chinn, Claiborne, Derbes, Downs, Eustis, Grymes, Guion, Labauve, Ledoux, Legendre, Mayo, Mazureau, Pugh, Roman, St. Amand, Sellers, Wadsworth, Winchester and Winder voted in the negative—23 nays; and the section as amended was adopted.

"Taxation shall be equal and uniform throughout the State. After the year 1848 all property on which taxes shall be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value, on which taxes shall be levied. *Provided*, that the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

It being the hour of twelve o'clock, Mr. Winchester moved to reconsider the vote adopting the section making all parish officers elective.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Bourg, Briant, Carriere, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Preston, Pugh, Roman, St. Amand, Saunders, Taylor of Assumption, Taylor of St. Landry, Waddill, Wikoff, Winchester and Winder voted in the affirmative—28 yeas; and

Messrs. Benjamin, Brazeale, Brumfield, Brent, Burton, Cade, Cénas, Chambliss, Claiborne, Covillion, DuBouchel, Eustis, Grymes, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Trist, Voorhies and Wederstrandt voted in the negative—35 nays.

This being the hour fixed, Mr. Taylor of Assumption moved to reconsider the vote adopting the proviso which excepts New Orleans from the provisions of the section making all parish officers elective. The yeas and nays being called for,

Messrs. Aubert, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McRae, Preston, Pugh, Saunders, Scott of Feliciana, Taylor of Assumption, Taylor of St. Landry, Waddill, Wikoff, Winchester and Winder voted in the affirmative—26 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Cade, Cénas, Chambliss, Claiborne, DuBouchel, Downs, Eustis, Grymes, Humble, Hynson, Ledoux, McCallop, Mayo, Marigny, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Read, Roman, Roselius, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Trist, Voorhies and Wederstrandt voted in the negative—37 nays.

On motion of Mr. Ledoux, the following section was taken up, viz:

"There shall be appointed by the governor, with the advice and consent of the senate, an auditor , whose duty it shall be to examine and approve all accounts before they are paid by the treasurer. He shall assist the legislature in examining the accounts of the treasurer, and perform all other duties which may be required of him by law."

On motion of Mr. Benjamin, said section was laid on the table indefinitely.

Agreeably to notice, Mr. Sellers moved to reconsider the sixth section of the legislative article.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Brazeale, Brent, Briant, Brumfield, Chambliss, Downs, Dunn, Guion, Hynson, Kenner, King, McCallop, Porter, Prescott of St. Landry, Pugh, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Taylor of St. Landry, Waddill, Wikoff and Winchester voted in the affirmative—25 yeas; and

Messrs. Benjamin, Burton, Cade, Carriere, Cénas, Chinn, Claiborne, Conrad of

Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Eustis, Garrett, Grymes, Hudspeth, Humble, Labauve, Ledoux, Legendre, Lewis, McRae, Mayo, Marigny, Mazureau, Peets, Preston, Prudhomme, Roman, Roselius, Scott of Baton Rouge, Stephens, Taylor of Assumption Voorhies, Wadsworth and Wederstrandt voted in the negative—37 nays.

The rules being dispensed with, Mr. Taylor of Assumption, moved to reconsider the twenty-third section of the legislative article.

The yeas and nays being called for,

Messrs. Brent, Briant, Chinn, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Guion, McRae, Porter, Preston, Roman, Taylor of Assumption, Waddill, Wadsworth, and Winchester voted in the affirmative—18 yeas; and

Messrs. Aubert, Beatty, Brazeale, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Conrad of Orleans, DuBouchel, Dunn, Eustis, Garrett, Grymes, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Prescott of St. Landry, Prudhomme, Read, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Wederstrandt, Wikoff and Winder voted in the negative—45 nays.

Mr. Conrad of New Orleans, said that he considered the house of representatives, under the new constitution, a most unwieldly body. It was composed of too many members. That was one of the defects he noticed in the constitution. He proposed to obviate the objection by reducing the number from ninety-eight to seventy-eight. In this reduction he has preserved the relative weight of the various sections of the State. He would beg leave to submit his proposition:

First congressional district:

From the parish of Plaquemines, take one member,		1
From the third municipality of New Orleans,		1
From the first municipality of New Orleans,		1—3
Second congressional district:		
From the second municipality of New Orleans, take		2
From the parish of Jefferson,		1
From the parish of Assumption,		1
" "	Lafourche Interior,	1—5
Third congressional district:		
From the parish of Iberville, take		1
" "	East Baton Rouge,	1
" "	East Feliciana,	1
" "	West Feliciana,	1—4
Fourth congressional district:		
From the parish of St. Martin, take		1
" "	St. Mary,	1
" "	Lafayette,	1
" "	St. Landry,	1
" "	Avoyelles,	1
" "	Rapides,	1
" "	Natchitoches,	1
" "	Catahoula and Claiborne,	1—8
Total,		20

From 98 deduct 20—78 members of the house of representatives.

Mr. Conrad moved for the adoption. The yeas and nays being called for,

Messrs. Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Preston, Saunders, Sellers, Waddill and Winchester voted in the affirmative—13 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, DuBouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Mayo, Marigny, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Pugh, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Wederstrandt, Wikoff and Winder voted in the negative—52 nays.

On motion of Mr. Dunn, the report of the committee on the bill of rights, was taken up.

Mr. Porter said that the sections reported under the title of a bill of rights, and which were now before the Convention, were not the production of his mind. They emanated from a source beyond his humble pretensions; from the most eminent of our public statesmen—the fathers of our republican institutions. Some gentlemen may be disposed to treat this subject with levity and indifference. He thought they were wrong. These princi-

ples, it may be said, were well established, and therefore, it may be argued that it is unnecessary to consecrate them in a constitution. This objection was not valid. They were fundamental principles, upon which rested the superstructure of democratic institutions. They were so regarded by the people of our sister States, and were to be found embodied in almost every modern constitution. It was necessary that these principles should be enunciated —that the rising generation may consult them, and that the public servants of the people may from time to time refresh their memories as to the rights and immunities of the people.

To say that they were reserved rights, clearly understood, was not yet sufficient. These rights may be misunderstood; they may be impaired; they may be invaded, unless the public mind is constantly in a position to apply the fundamental principles of republican government as a test to the administration of public affairs, and to the uninterrupted exercise of civil and religious liberty.

If any good reason can be adduced why these principles should not be enunciated in a republican constitution, I should be glad (said Mr. Porter,) to hear them. But I apprehend none such can be given. Are we better instructed, or more fully indoctrinated into the rights and privileges of free government than our sister States? Do we understand our rights better, or are they better guarded? The immortal Jefferson did not think this a matter beneath his dignity, or unworthy of his solicitude. The reputation of Louisiana yields to that, I am proud to say, of no other State in the Union. I should be sorry that she should set the example of a feeling of disregard towards the fundamental principles of democratic government so far as to refuse to place their enunciation in her constitution. I hope that her representives will not suffer their patriotism to fail them on this occasion.

I cannot anticipate any reasonable objections, and I shall not attempt to set up pins for the purpose of knocking them down. These are abstract principles, and I have but little talent to discuss them; but if any thing can be urged against them, I will attempt to reply, or abandon them to their fate.

Mr. Beatty moved that they be laid indefinitely on the table, and called for the previous question.

The call for the previous question was sustained—41 yeas; 20 nays.

The yeas and nays were then called on Mr. Beatty's motion to lay said report on the table indefinitely.

Messrs. Aubert, Beatty, Bourg, Burton, Carriere, Chambliss, Conrad of Orleans, Conrad of Jefferson, Derbes, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mayo, Pugh, Roman, St. Amand, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff, Winchester and Winder voted in the affirmative—35 yeas; and

Messrs. Brazeale, Brent, Cade, Cenas, Claiborne, Covillion, Culbertson, DuBouchel, Dunn, Humble, Hynson, McCallop, McRae, Marigny, Porter, Prescott, of St. Landry, Preston, Prudhomme, Read, Roselius, Saunders, Scott of Baton Rouge, Trist and Waddill voted in the negative—24 nays.

On motion, the preamble to the constitution was taken up:

"We, the people of the State of Louisiana, by our representatives in Convention assembled, in order to secure to the citizens thereof the enjoyment of the rights of life, liberty and property, and of pursuing happiness, do order and establish the following constitution and civil form of government."

Mr. Eustis moved to lay the preamble on the table indefinitely, and to substitute the words "constitution of the State of Louisiana."

His motion was lost.

Mr. Taylor of Assumption offered as a substitute the following:

"We, the people of the State of Louisiana, do ordain and establish the following constitution for the government of ourselves and our posterity."

Mr. Beatty moved to amend said substitute, by striking out the words "and our posterity," which motion prevailed.

On motion of Mr. Porter, said substitute was laid on the table indefinitely.

Mr. Downs offered the following substitute, and the same was adopted, viz:

PREAMBLE.

"We, the people of the State of Louisiana, do ordain and establish the following Constitution."

On motion of Mr. DUNN, the report of the committee on education was taken up, viz:

SEC. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years; whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

SEC. 2. The legislature shall encourage the institution of common schools throughout the State, for the promotion of literature and the arts and sciences, and shall provide means for that purpose and for their support.

SEC. 3. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the use or support of schools, and of all lands that have been or may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan; and shall be and remain a perpetual fund, on which the State shall pay an annual interest of per cent. ; which interest, together with all the rents of the unsold lands, shall be inviolably appropriated to the support of such schools and institutions of learning throughout the State, until the rents or interest, or both together, shall amount to the sum of per annum; after which the annual excess of such rents and interest may be applied by the legislature to other objects.

SEC. 4. The fund arising from the rents or sales which may hereafter be made, of the lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be inviolably applied to the use specified, or that may be specified in the grant.

And your committe recommend the adoption of the following resolution:

Resolved, That our representatives and senators in congress be requested to use their best efforts to procure the passage of a law granting to this State the unsold land within this State, belonging to the United States, or as large a portion thereof as possible, for the purpose of education; and to co-operate, if necessary, to effect that object, with the representatives and senators in congress from other States.

Mr. EUSTIS, of the committee on education, submitted the following, viz:

An university shall be established in the city of New Orleans. It shall be composed of four faculties, to-wit: One of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the Medical College of Louisiana, as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government.

Mr. LEWIS said that this was a matter within the ordinary competency of the legislature, and ought not to be put in the constitution.

Mr. KENNER offered as a substitute for the second section the following, viz:

"The legislature shall establish throughout the State a system of free schools, for the education of all the children of the people of the State, and shall provide the means for that purpose, and for their support."

Mr. LEWIS offered as a substitute for the whole, the following, viz:

"SEC. —. The legislature shall establish free schools throughout the State, and shall provide means for their support. The proceeds of all lands that have been, or hereafter may be granted by the United States to this State for the use or support of schools, and of all lands that may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan; and shall be and remain a perpetual fund, on

which the State shall pay an annual interest of per cent ; which interest, together with all the rents of the unsold lands, shall be inviolably appropriated to the support of such schools."

"Sec. —. The fund arising from the rents or sales which have been, or may hereafter be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds shall be inviolably applied to the use specified, or that may be specified in the grant."

Mr. Kenner moved to amend said substitute by inserting in the second line after "free" the word "public;" which amendment was adopted.

Mr. Roselius said it seemed to be concluded on all hands that a system of public education ought to be establised, and that such a system ought to operate uniformly throughout the State. The first thing then to be considered is how are we to base that system upon a sure and permanent foundation. That can only be done by providing a permanent fund for the support of education. We have already the means to a certain extent, under the act of congress, donating certain portions of public territory to the purposes of education. The sixteenth section of every township is expressly reserved for the use of common schools. That cannot be diverted from its legitimate purpose. There is another appropriation of two townships of land for a seminary of learning. The legislature in 1843, laid their sacrilegious hands upon this donation, they ordered it to be sold, and the proceeds to be applied to the payment of the ordinary debts of the State. They diverted it from the purpose for which it was granted. The act consummatiug this outrage, (said Mr. Roselius) will remain a perpetual blot upon our statute books! I cannot find words to express my utter abhorrence and detestation of that act. We should take warning for the future and place it beyond the power of the legislature to abstract the means exclusively belonging to education to any other purpose.

The report of the committee on education, now before us may possibly need amendment, but as a whole I consider it as the corner stone upon which may be reared a magnificent system. I consider it to be essential. This, however, I do not consider the proper time to enter into the merits of the plan.

I have no doubt that the delegate from Ascension (Mr. Kenner,) is persuaded that his substitute will effect the same purpose thro' legislative interposition. But I would beg that delegate to reflect upon the experience of the past. What has been done by the legislature? The same results will follow future legislation, that has followed preceding legislation, unless a permanent system be recognized and consecrated in the constitution. The State has squandered millions of dollars for the purpose of public education, and to what purpose? Little or no good has been done. The blessings of public education have not been disseminated throughout the State. Something has been effected in the city. But, how far would the small pittance contributed by the State, have gone towards rearing those glorious institutions of which New Orleans may feel so proud? While the State has only contributed seven thousand dollars, the city of New Orleans has contibuted one hundred thousand dollars to the support of these schools.

But what has become of the millions of dollars appropriated by the State? It has been thrown away. In one of the richest parishes of the State adjacent to the city, I knew of an instance, where one of the public teachers, at the head of the school, did not actually know how to spell. How was it that he happened to be employed or retained? Because there was no superintendent of public education; there was no one to inspect and overlook the persons employed to teach. The system of public education has undergone occasional modifications, but this most important feature until now has been entirely overlooked, and no system of universal education has been adopted.

In the endowment of a higher institution, a college, we have likewise been guilty of a capital mistake. We have frittered away the resources of the State upon several institutions, when those resources ought to have been confined to a single institution. Of the three colleges established, all have failed with the exception of the college of Jefferson, and that is in a lingering state. With the population of Louisiana, and

the States immediately adjoining, one institution is amply sufficent to provide for our own wants as well as the wants of the co-adjacent States.

Mr. KENNER said he agreed fully with the gentleman who had just resumed his seat, that the proceeds of the public lands, donated for the purposes of education, should be religiously appropriated to that object. I can not, said Mr. K., yield my sanction to the second section of this report, because I consider that the expression that the legislature "shall encourage the institution of common schools," as totally insufficient. To "encourage" is not the proper word. I would go further; I would make the requisition imperative. Not that the legislature shall "encourage" the institution of common schools, but that the legislature shall establish throughout the State a system of free schools, for the education of all the children of the people of the State. To accomplish this desirable result, I would make it imperative upon the legislature to raise the means for the maintenance and support of free shools. As to the establshment of a college or university, although I look upon such an institution with favor, I am not solicitous in the same degree for any thing so elevated. Let those who feel the want of a more complete education for their children, take the necessary steps to provide such an institution. But I hold it as our first duty, to establish the system of free schools, accessible to all, to the rich and to the poor indiscriminately, and to provide adequate means to keep up that system, and to maintain its usefulness.

Mr. MAYO stated that the committee designed suggesting certain amendments to their report. From what had been done by the legislature, the Convention would see the expediency of placing it out of the power of that body, to dispose of the public domain, appropriated to education, for any other purpose than that designed in its appropriation. The legislature had ordered the sale of the seminary lands, and had applied the proceeds to the payment of its public debt. What was to prevent them from disposing of the sixteenth section and diverting the proceeds to a similar purpose?

Mr. PRESTON moved to lay the report of the committee indefinitely on the table. He was as great a friend to public education as any one, particularly to universal education. He had felt the benefits of such a system, and he desired to extend it to all his fellow citizens. But he thought it better to leave this matter with the legislature. They came from the people, and would take care that the wishes of the people, in this respect, were carried out. They had always shown great solicitude upon the subject, and surely there was no want of liberality in their appropriations. That the system adopted had not met better success was a misfortune, but experience was as likely to have as beneficial an influence upon that body, in making salutary changes, as upon this.

In reference to what fell from the delegate from New Orleans (Mr. Roselius) as to the act which in his opinion deserves so much execration, for the sale of the seminary lands, I will merely reply that a great portion of this very indebtedness of the State, which he thought ought not to have been paid, arose from appropriations made for public education. The legislature and the executive thought themselves justified in using these means temporarily, for the purpose of discharging these debts. I see nothing hienous in that measure. I consider it perfectly right. We are bound to pay our honest debts, even if we have to sell the vevy clothes off our backs.

Mr. ROSELIUS said that he agreed with the delegate from Jefferson, (Mr. Preston) that we were bound to pay the debts of the State. But he could not agree that a sacred deposite should be directed from its purpose and applied to the payment of these debts. The act in question for the sale of these lands, was a breach of good faith. There was nothing to justify it. But, says that delegate, this money was taken to pay off debts, occasioned by appropriations for public education. That may very well be. From the year 1813 to the present time, the legislature has squandered millions for the purpose of promoting public education, but to little or no good purpose. To attempt to sustain the ground, that because the legislature has, through improvidence, involved herself for public education, she is authorized to use the per cent of property committed to her charge by the general government, for a purpose eqpressly specified, would be equivalent to sustaining that because one individual had been liberal to another at one time, and

had involved himself on his account, he would be afterwards justified in robbing him. I repeat, it was an abominable breach of good faith. A man who robs another upon the pretence of necessity, is just as justifiable as the legislature were in diverting the proceeds of the seminary lands to the payment of State debts. A poor devil, for stealing a loaf of bread, or a shirt to cover his nakedness, is sent to the penitentiary, while a flagrant violation of good faith, on the part of the State, is justified.

But I will not dwell any longer on so melancholy and painful a subject. I sincerely wish that the act of 1843 could be expunged from our statute books. But there it stands, in bold relief, an evidence of the wisdom or folly of its authors!

As for the idea that public schools are intended for the poor, it is fallacious. There should be no difference between the poor and the rich. in these institutions; the children of both poor and rich should receive the benefits of public education indiscriminately. It would defeat the very object which prompts their establishment. The feeling of exclusion would be hateful. There is a sentiment of independence in the breast of the poorest man, which would prevent him from sending his children to school, if the school were exclusively designed for the education of poor children. But why speak of poverty in Louisiana? A State, whose soil is so fertile, and whose resources are so abundant. Why speak of the education of the poor? Education should be for all. It should be a State institution. The State owes it to her citizens. Knowledge is an aliment that she should not deny them. Let us establish the glorious fabric of free public education upon a solid and permanent foundation! I hope that the Convention will pause, and act with that calmness which befits a subject of such momentous consequences to the future well being of the State.

Mr. GARCIA gave notice that he would on Friday next move to reconsider the vote adopting the section on duelling.

Mr. PRESTON then moved to lay the report on education, and all the amendments, on the table indefinitely.

The yeas and nays being called for,

Messrs. Aubert, Brazeale, Brumfield, Burton, Guion, Hudspeth, Lewis, McCallop, Preston, Pugh and Waddill voted in the affirmative—11 yeas; and

Messrs. Beatty, Cade, Cénas, Chambliss, Conrad of Jefferson. Derbes, Dunn, Eustis, Garcia, Garrett, Humble, Hynson, Kenner, King, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Read, Roman, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Taylor of St. Landry, Wederstrandt, Wikoff, Winchester and Winder voted in the negative—32 nays.

On motion of Mr. KENNER, the first section of said report was laid on the table indefinitely, viz:

SEC. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a spuerintendent of education, who shall hold his office for two years, whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

Mr. DUNN gave notice that he will move to reconsider the vote laying said section on the table indefinitely.

Mr. KENNER accepted the substitute of Mr. Lewis, and moved its adoption.

Whereupon the Convention adjourned.

THURSDAY, May 8, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. GOODRICH opened the proceedings with prayer.

The PRESIDENT submitted a letter of invitation from the president of the executive committee of the agricultural and mechanic association of the State, to attend the annual fair of the association, at the town of Baton Rouge.

On motion of Mr. DUNN, said invitation was accepted.

Mr. EUSTIS, chairman of the committee on revision, submitted the following report, viz:

"The committee of revision report to the Convention that they consider it advisable to defer a further revision of the articles of the constitution until the unfinished business be transacted, and all the articles of the constitution be adopted at the first reading.

(Signed,) GEO. EUSTIS,
Chairman."

On motion of Mr. CHINN, said report was laid on the table, subject to call.

Mr. WINDER withdrew the notice he had given to move for the reconsideration of the vote forming one senatorial district of the city of New Orleans.

On motion of Mr. TAYLOR of Assumption, the rules were dispensed with, for the purpose of acting upon all motions for reconsideration.

Mr. WADDILL offered the following resolution, and the same was adopted, viz:

No new motion for reconsideration shall be allowed after twelve o'clock, m., this day, unless by a concurrence of three-fourths of all the members of this Convention.

Mr. HUMBLE gave notice that he would move to reconsider the vote adopting the section removing the seat of government from the city of New Orleans.

Mr. PORTER moved that the rules be dispensed with, in order to call up the 27th section of the bill of rights. He said that he presumed the 27th section was lost for no other reason than because it was deemed to be in bad company. It was, however, a most important provision as regarded the future boundaries of the State and the contiguous territory of Texas.

The motion to dispense with the rules was lost.

Mr. PORTER then gave notice he would move for the reconsideration.

ORDER OF THE DAY.

The Convention resumed the consideration of the subject of public education.

Mr. MAYO moved that the word "free" be struck out in the substitute offered by Mr. Lewis, so that the section would read, "the legislature shall establish public schools," &c., &c.

Mr. KENNER considered that in the word "free" lay the whole gist of the matter. His object was to oblige the legislature to establish the system of free public schools. If the proceeds of the public lands were insufficient to establish and maintain them, he was fully willing that a tax of half a million should be raised to sustain them. He trusted the word "free" would not be struck out.

Mr. BENJAMIN said that he considered the only safety for this State and for the United States, was the establishment of public schools, to diffuse the blessings of universal education among the people. We were fast diverging into the extremes of democracy. Unless means were taken to enlighten the masses, in order that they may be enabled to exercise political rights, with the extreme opinions which now prevail, it requires no great foresight to predict that we shall soon reach a state of complete anarchy. If you qualify the people for the extension of powers, if you fit them for the exercise of these extended powers, and public education is indispensable to that end, you may go to the fullest extent. With public education you may extend democratic principles without danger and without apprehension. But with universal suffrage there must not be popular ignorance. You must enlighten the public mind, and place before it ample means for the acquisition of knowledge. In a government in which all the citizens participate, where elective franchise is unlimited, I consider the first object of solicitude is public education; and if the Convention shall have accomplished that, they will secure our institutions from the manifold dangers with which they are threatened; they will elevate the character of the State, and our institutions will be properly appreciated and faithfully administered.

It is idle to speak of schools, where people may. Who wants them? There are an abundance of such schools, and those who can afford to pay are never at a loss. But we want public schools, for those who cannot afford to pay, as well as for those who can afford to pay. The only safety for our liberties, I repeat, is public education. Imbue the minors of the rising generation with knowledge, and they will understand the acts of scheming demagogues. Spread the rudiments of education far and wide. Plant the seed of knowledge, and those who desire more than the rudiments of education may perfect themselves, they may reap the harvest!

Mr. DUNN said that the word "free" was the best word in the whole provision.

Mr. MAYO withdrew his amendment.

Mr. TAYLOR of Assumption, proposed an amendment to test the sense of the house. It was to insert after the words "the legislature shall establish free public schools throughout the State, and provide for their support," the words "by taxation or otherwise."

The amendment was unanimously adopted, and the section was then adopted.

The second section was taken up.

Mr. Downs suggested that there might be some conflict in reference to disposition upon the sixteenth section, under the acts of congress making that appropriation. It would be better, therefore, to leave that matter to the legislature. There was another difficulty. By some it was contended that this appropriation was exclusive to the several townships, by others it was understood to be a common stock.

Mr. Taylor of Assumption, thought that it was better not to go too much into details. He considered that the Convention had done all that it was necessary to do. He concurred fully in what fell from the delegate from Ouachita (Mr. Downs). The proceeds of the sales of the public lands for the support of schools and for a seminary of learning, had to be invested, and it could not be better invested than by making the State debtor to that fund, and exacting from her a certain rate of interest. When we say in the constitution imperatively that these schools shall be established, and point out the means for their support, we do all that is requisite to ensure a wise and proper administration.

Mr. Beatty thought the section was of great use. It was necessary to constrain the legislature to fulfil its duty, and even if there should be a conflict between the act of congress and the dispositions of the section, in reference to the school lands, congress would not hesitate in confirming measures calculated to carry into effect the design for which that appropriation was made. It so happens, continued Mr. Beatty, that in some parishes the sixteenth section is covered by private claims, existing when the session of Louisiana was consummated; in other parishes, it is of little or no value. It seems but just that the fund derived should be constituted into a common stock for the benefit of the people of the whole State. It should be religiously applied to the purpose of education. I do not wish to be understood as participating in the opinion expressed by an honorable delegate, (Mr. Roselius) that the liberality of the State has been thrown away to no purpose. I do not think so. In my section of the State public education has made some progress, which is attributable to the appropriations made by the State, and some good has been effected, although the system has been defective. If the appropriations made have even served to the education of one dozen children, I do not consider the money thrown away.

Mr. Conrad of New Orleans, said that if on one hand there was a disposition to do nothing in reference to public education, on the part of some members, on the other there was a disposition on the part of the committe to go too far; to do too much. I think that the State is religiously bound to apply the proceeds of the public lands for the purpose to which they were appropriated. But I do not take upon myself to say, as one of my colleagues (Mr. Roselius) has said, that the legislature were not justifiable in employing the proceeds of some of these lands to relieve the present embarrassments of the State. These embarrassments were very pressing. At any rate there can be no doubt but that the State is bound to restore the amount realized.

I think the section ought to be amended as follows, by striking out the words "and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons, to which the State may be or hereafter become entitled by law."

If the policy of Mr. Calhoun and that of a large party of which he is the head, prevail in relation to the public lands, the body of these lands remaining unsold will be relinquished by the general government to the State governments. The value of public lands in Louisiana are immense, and under this section, if it be not modified as I propose, the whole of these lands in the event to which I have alluded, will pass to the sole use of education. The fund derived would be altogether too large and disproportionate to the wants of education. But, I may be told that this relinquishment is quite improbable. It may not be very probable, but at any rate it is quite possible, and it is the part of wisdom to anticipate the possibility of such a contingency. In reference to the vacant estates of deceased persons, the amount realized may be trifling, but it may be very large.

Mr. Chinn called for the previous question, and it prevailed.

Mr. Kenner moved to lay Mr. Conrad's

amendment on the table indefinitely, and called for the yeas and nays upon his motion.

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Derbes, DuBouchel, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Preston, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt, Winchester and Winder voted in the affirmative—48 yeas; and

Messrs. Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Guion, Pugh, St. Amand, Sellers and Wikoff voted in the negative—12 nays.

Mr. Mayo moved to fill the blank in the clause fixing the amount of interest to be paid to the State at eight per cent. This motion was lost.

Mr. Downs then moved to fill the blank with seven per cent, and called for the yeas and nays upon that motion.

Messrs. Brazeale, Cade, Cénas, Chambliss, Claiborne, Downs, Dunn, Humble, Hynson, King, Mayo, Porter, Prescott of St. Landry, Roman, Saunders, Splane, Taylor of Assumption, Trist, Waddill, Wederstrandt and Winchester voted in the affirmative—21 yeas; and

Messrs. Aubert, Beatty Benjamin, Bourg, Briant, Brumfield, Burton, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, DuBouchel, Eustis, Garrett, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, McCallop, Marigny, McRae, Peets, Preston, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff and Winchester voted in the negative—38 nays.

Mr. Mayo moved to fill the blank with six per cent, which motion prevailed.

Mr. Claiborne said that the fact had already been alluded to, that in some sections of the State the sixteenth section was valueless. It was but just that the proceeds arising from the appropriation for common schools, should be constituted a common fund for the benefit of education throughout the State. He would therefore propose to embody the following in the section, "and for the equal advantage of the people of the State, provided the assent of congress be attained." This amendment was lost.

Mr. Mayo moved for the adoption of the section. The yeas and nays were called for.

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Chinn, Claiborne, Covillion, Culbertson, Derbes, Dunn, DuBouchel, Eustis, Garrett, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Winchester and Winder voted in the affirmative—53 yeas; and

Messrs. Briant, Conrad of Orleans, Conrad of Jefferson, Downs, Guion, King, Labauve, Preston and Wikoff voted in the negative—9 nays.

The following section was then taken up, viz:

"The fund arising from the rents or sales which hereafter may be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, any interest that may accrue upon such funds, shall be inviolably applied to the use specified or that may be specified in the grant."

Mr. Mayo offered as a substitute to the foregoing, the following:

"All moneys arising from the sales which have been or may hereafter be made of any lands heretofore granted by the United States to this State for a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund; the interest of which, at six per cent per annum, shall be inviolably appropriated to the support of a seminary of learning for the promotion of literature, and the arts and sciences, and no law shall ever be made authorizing said fund to be diverted to any other use than to the establishment and improvement of said seminary of learning."

The substitute was adopted.

Mr. Eustis called up the section he had offered, viz:

"An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the medical college of Louisiana, as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government."

Mr. Chinn moved to lay the foregoing proposition indefinitely on the table. Mr. C. said he considered it unnecessary, as the legislature were fully competent to act upon this matter.

Mr. Eustis said he certainly did not wish to intrude any measure against the obvious sense of the house. It was with regret that he saw a disposition manifested to dispose of by far the most important subject that had come under the consideration of the Convention, in a summary manner. He was sorry that it should be deemed expedient to do so. Under the indulgence of the house, he would state what were the views that had influenced him in introducing this proposition. It was considered that in adopting universal suffrage, we took necessarily the consequences that would flow from it were any portion of the people ignorant and debased. As has been well said by a delegate (Mr. Benjamin) it was of the highest importance that with the extension of suffrage, knowledge should be extended. Without you enlighten the sources of political power, we shall have no government. The tyranny of numbers will rule instead of the tyranny of one man. You have adopted the principle of universal suffrage, but the basis is public education. You should not build until you have laid the foundation, the corner stone, until then, you have done nothing.

I am aware that you do not wish to hear a speech, and I would be the last to make one. You say that you have established common schools in order to develope the intelligence, and to enlighten the masses who will wield the political destinies of the State. This is without doubt doing much. But, will your common schools suffice for the training of lawyers, for the education of men of intelligence? Is there any provision for the education of the men who are to administer your government? There is little or nothing accomplished towards that object by the creation and endowment of common schools. I may be told that there are self-educated men. I admit there are men who will learn every thing, and make themselves distinguished. There are many on this floor. But, how many have come out of the mass after thirty years, and after expending a million and a half of dollars for the purpose of education in this State? Are we to rely upon that source alone for men to whom we may with safety commit the destinies of the State? Where are we to get our judges, and legislators? Unless particular individuals are endowed with the highest order of intellect, we cannot expect that a mere common school education will suffice. There are those who will shine conspicuous despite of circumstances. These are exceptions. But, for the mass of mankind, you must provide adequate means of acquiring knowledge.

What is our position at present—we have no means of educating a lawyer or architect? Well, you permit the money of the State to be sent abroad for the education of your children? How much money? No less a sum than two hundred thousand dollars per annum! But that is not all—you exile your children. You may have strangers to administer your laws, if not in birth perhaps in feeling. Intellect is power. Men of intelligence come from where they may most govern. Let us put a stop to the crying evils which most result from the want of adequate means to confer a home education. Let us at least plant the tree of knowledge. We ask you for nothing more than to protect it from the ruthless hand of violence. Unless you sanction some such plan as is suggested in the section before you, every system you may devise will be but a mockery. We ask you for no money—for no lands—we only ask you the means of establishing a proper system of education. We ask you for an institution where the lawyer, the physician and the architect may be perfected. New Orleans is the centre of an empire. Go to our public lectures, and you will find them thronged. I have been repeatedly called upon by the young men of the city to deliver lectures. The coffee houses are

ceasing to be the haunts of dissipation and *ennui*. All this avidity for knowledge has been excited without the fostering hand of the government. One word more, and I am done. Look at the institutions that have stood the test of time—Harward and Yale! Both these institutions are recognized in the constitutions of their respective States. This is a worthy example for the wisdom of Louisiana. Let us imitate it, and the fruits will be many.

Mr. CHINN would make a remark in explanation. He was not averse to the proposition. No man would go further than he would in promoting the purpose designed. But he feared, at this late period of the session, it was impracticable. The location of a proper site for such an institution, would give more trouble than any thing else. He was not opposed to the institution. He was decidedly favorable to it. He thought, however, it was better to leave it with the legislature; at any rate, it was better to do so than for the Convention to act upon it hastily at the moment of adjournment. As he believed, every moment spent upon the discussion of this subject was uselessly spent, he would move the previous question.

The call for the previous question was sustained. The question then recurred on Mr. Chinn's motion to lay the proposition indefinitely on the table; and the ayes and nays were called for,

Messrs. Aubert, Chinn, Conrad of Orleans, Covillion, Downs, Hudspeth, Hynson, Kenner, Lewis, McCallop, McRae, Porter, Prescott of St. Landry, Preston, Read, Scott of Feliciana, Sellers, Stephens, Wikoff and Winder voted in the affirmative—20 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of Jefferson, Culbertson, Derbes, Du-Bouchel, Dunn, Eustis, Garrett, Guion, Humble, King, Labauve, Legendre, Marigny, Mayo, Mazureau, Peets, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Soule, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt and Winchester voted in the negative—43 nays.

Mr. C. M. CONRAD said he had voted yea, because, although he concurred cordially in the proposition, still he thought the constitution was not a proper place for it.

Mr. DOWNS voted yes, because he thought there was a conflict between this section and the section relative to seminary lands.

Mr. KENNER considered that the superstructure for universal suffrage, was free common schools. In establishing them, we had done what was indispensable.

Mr. LEWIS moved, in the first section, to substitute "the State of Louisiana" for the words "city of New Orleans." He said he offered this amendment simply to leave the location to the legislature.

Mr. BENJAMIN said that one moment's reflection would convince the delegate from St. Landry (Mr. Lewis) that an university of the character contemplated could be established no where out of the city of New Orleans. Nothing more was asked than a perpetual charter. It was contemplated that the institution should be composed of four faculties—a faculty of medicine, of law, of arts, and of letters. It would be necessary to begin on a small scale, for the funds that may be raised otherwise would not suffice. Eminent men in the several professions in the city, would be invited in their spare hours, to deliver lectures. It would be impossible to provide the necessary professors out of the city, without a very heavy expense, which the immediate resources of the institution could not afford. Lectures would be delivered by men of science, members of the bar and physicians, who would take a spare moment from their professional pursuits; and as the city combined the greatest facilities to obtain the services of such persons, it was manifest, that to say that the institution should not be established in the city, was equivalent to saying that it should not be established at all; for there were no adequate means at hand to establish it, and it could not be established in any other way than by the plan proposed. The State was yet too young to endow such an institution. At the north, these institutions were promoted by the legacies of wealthy men. We have not the same resources, and would have to rely upon useful and valuable members of the different professions, to contribute their energies and the faculties with which God has endowed them in furtherance of the

undertaking. Men who are eminent as physicians and lawyers, and as votaries of science. He hoped no sectional jealousy would be excited upon this subject. If it be desired to establish this institution in the city, it is chiefly because it is impracticable to locate it in the country without immense resources, such resources as neither the State nor individuals can hope to contribute at the present time.

Mr. CHINN said he concurred in what fell from the delegate from New Orleans, (Mr. Benjamin) and would give his assent to the proposition, provided the institution was located four or five miles out of the city.

Mr. ROSELIUS: That is out of the question. Gentlemen practising the learned professions would not have the leisure to go four or five miles daily out of the city, to deliver lectures. And where is there any necessity for this?

Mr. SOULE said he trusted that the proposition of his honorable friend (Mr. Eustis) would prevail, by a large majority. Its object is to secure for the institution which it proposes to create, a healthy and vigorous existence; to place it upon a durable foundation. If there be a measure which is imperiously called for by the wants of society, and which ought to be recognized in the constitution, it is the one that is now before you. It is essential to the present and to future generations. Let the unanimity with which the Convention shall pronounce in its favor, be an augury of its complete success. We have the example of two States which have, in a similar manner, established institutions, worthy of themselves and of the cause of science. I refer to Harvard and to Yale colleges. Let us follow that example, and assign a rank no less distinguished to the University of Louisiana!

Mr. MAYO offered the following additional proviso, and the same was accepted by Mr. Eustis, viz:

"*Provided*, That the legislature shall be under no obligation to contribute to the establishment or support of said University, by appropriations."

Mr. WINDER moved to amend said proviso, by striking out the words "be under no obligation," and insert in lieu thereof the words "not have power."

The yeas and nays were called for,

Messrs. Aubert, Brumfield, Carriere, Hudspeth, Hynson, Lewis, McCallop, Read, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St Landry, Wikoff and Winder voted in the affirmative —15 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Burton, Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Du-Bouchel, Dunn, Eustis, Garrett, Guion, Humble, Kenner, King, Labauve, Legendre, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Madison, Soulé, Splane, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Winchester voted in the negative—46 nays; consequently said motion was lost.

Mr. MAYO moved for the adoption of the project as amended, viz:

An university shall be established in the city of New Orleans. It shall be composed of four faculties, to-wit: One of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the Medical College of Louisiana, as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government.

Provided, That the legislature shall be under no obligation to contribute to the establishment or support of said University, by appropriations.

Which motion prevailed.

On motion of Mr. DUNN, the vote rejecting the first section of the report of the committee on education, was re-considered, and the same was taken up, viz:

SEC. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years, whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

Mr. DUNN moved for the adoption of said section.

The yeas and nays were called for,

Messrs. Beatty, Bourg, Brent, Briant, Brumfield, Burton, Carriere, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Du-

Bouchel, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Legendre, Lewis, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Pugh, Read, Roman, Roselius, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Taylor of St. Landry, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—47 yeas; and

Messrs. Aubert, Benjamin, Cade, Conrad of Jefferson, Guion, Kenner, Labauve, McCallop, Peets, Preston, Soulé, Stephens, Trist, Waddill and Wikoff voted in the negative—15 nays.

On motion of Mr. SPLANE, the vote adopting the fifth section of the judiciary, was reconsidered, and the same was taken up, viz :

SEC. 5. The supreme court shall hold its sessions in the city of New Orleans, from the first Monday of the month of November, to the end of the month of June, inclusive. The legislature shall have the power to fix the sessions elsewhere during the rest of the year. Until otherwise provided for, the sessions shall be held as heretofore.

Appeals from the parishes of Jackson, Union, Morehouse, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas and Concordia shall, until otherwise provided, be returnable to New Orleans.

Mr. SPLANE moved to amend said section by inserting at the end of the proviso, the words "and the parish of St. Mary."

Mr. SPLANE remarked, that the supreme court held its sessions in the month of September at the town of Opelousas. This was the sickliest season of the year in the country. It was excessively inconvenient to those residing in St. Mary's, who had business in the supreme court, to attend the sessions at Opelousas. They were obliged to ride a very long distance, and were exposed to the burning rays of the sun and to the inclemency of the season. The court itself having to proceed to Alexandria, hurried its sessions, despatched its business with such hot haste, that the administration of justice had to suffer. These were his motives for submitting his amendment.

Mr. BEATTY thought it better to restore the section as it originally stood, that the sessions of the supreme court should be held at New Orleans until otherwise provided by law. There were only three or four other parishes that desired a county session of the supreme court, and it would be better to establish a general provision subject to the control of the legislature. To put a stop to useless discussion on this point, he would move the previous question.

The call for the previous question was sustained.

Mr. CADE moved to amend said section, by striking out the words "New Orleans," and insert in lieu thereof the words "seat of government;" which motion was lost.

The question then recurred on Mr. Beatty's motion, that the sessions of the supreme court shall be held in the city of New Orleans alone, until otherwise provided by law.

The yeas and nays were called for,

Messrs Beatty, Benjamin, Bourg, Briant, Brumfield, Carriere, Chinn, Claiborne, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Guion, Hudspeth, Humble, Kenner, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, Saunders, Scott of Baton Rouge, Sellers, Soulé, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—41 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Conrad of Orleans, Covillion, Du Bouchel, Garrett, King, Labauve, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Read, St. Amand, Scott of Feliciana, Scott of Madison, Stephens and Waddill voted in the negative—24 nays.

Mr. BRENT offered the following amendment, viz:

"Until otherwise provided for, the appeals from the parishes of Rapides, Avoyelles, Natchitoches, Sabine, DeSoto, Bossier, Caddo and Claiborne, shall be returnable as heretofore "

On a question of order,

The CHAIR (Mr. Taylor of Assumption, in the chair) decided the amendment to be out of order.

Mr. BRENT appealed from the decision of the chair; and the question being put, "shall the decision of the chair be sustained?" and the yeas and nays being called for, (Mr. Taylor of Assumption, in the chair,)

Messrs. Aubert, Beatty, Bourg, Benjamin, Briant, Carriere, Chambliss, Chinn,

Claiborne, Conrad of Jefferson, Culbertson, Derbes, Downs, DuBouchel, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, Preston, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soulé, Splane, Taylor of St. Landry, Trist, Voorhies, Wederstrandt, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—48 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Conrad of Orleans, Covillion, Humble, Hynson, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Scott of Feliciana, Stephens and Waddill voted in the negative—17 nays.

Mr. BRENT, having voted in the majority, moved to reconsider the vote reconsidering the fifth section, under the motion of Mr. Splane.

On a question of order,

The CHAIR (Mr. Taylor of Assumption, in the chair) decided the motion to be in order.

Mr. BEATTY appealed from the decision of the chair; and the question being put, "shall the decision of the chair be sustained?" the same was sustained.

Mr. WALKER said he hoped the parish of Rapides, and surrounding parishes, should not be deprived of the presence of the supreme court at Alexandria. It was the desire of the people, and of the members bers of the bar, that the sessions of that court should be held there in the fall, as heretofore. He had no objections to urge against appeals being brought to the city from those parishes that desired it, but he thought the wishes of other sections of the State, that desired their appeals to be decided in their vicinity, ought to be, and he doubted not would be respected by this body.

The yeas and nays were then called for on the motion of Mr. Brent to reconsider, and

Messrs. Benjamin, Brazeale, Brent, Briant, Burton, Cade, Chambliss, Chinn, Conrad of Orleans, Covillion, Culbertson, DuBouchel, Downs, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt and Wikoff voted in the affirmative—39 yeas; and

Messrs. Aubert, Beatty, Brumfield, Claiborne, Conrad of Jefferson, Derbes, Dunn, Garcia, Guion, Legendre, Marigny, Pugh, Roman, Roselius, Saunders, Splane, Voorhies, Wadsworth, Winchester and Winder voted in the negative—20 nays.

This result placed the section in the same situation in which it was before Mr. Splane's motion for reconsideration.

Mr. GARRETT moved for the reconsideration of the vote adopting the eleventh section of the article upon the judiciary, with the view of adding the following:

"*Provided*, That the dispositions in this section be not understood as applying to justices of the peace."

Mr. LEWIS inquired if the gentleman intended to make parish judges out of justices of the peace?

Mr. GARRETT: I think not. The jurisdiction of justices of the peace are limited to one hundred dollars. I can see no danger of their becoming parish judges by the amendment I propose. I wish to add this to the section, and nothing else.

His motion was lost.

Mr. CLAIBORNE moved for the reconsideratian of the first section of the judiciary article. He made this motion, he said, for the purpose of restoring the clause, "and in such other courts in the city of New Orleans as the legislature may prescribe," which had been stricken out.

The yeas and nays were called for upon his motion, and

Messrs. Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Marigny, Porter, Pugh, Roselius, Saunders, Scott of Feliciana, Taylor of Assumption Voorhies and Wadsworth voted in the affirmative—16 yeas; and

Messrs Aubert, Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Chamblis, Chinn, Downs, DuBouchel, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, McRae, Mayo, Peets, Prescott of St. Landry, Preston, Read, Roman, Scott of Baton Rouge, Scott of Madison, Sellers, Splane, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—42 nays.

Mr. HUMBLE moved for the reconsideration of the section prescribing that the seat of government should not be established within a radius of sixty miles of the city of New Orleans.

The yeas and nays were called for on Mr. Humble's motion, and

Messrs. Benjamin, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Downs, DuBouchel, Eustis, Garrett, Humble, Legendre, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Roman, Roselius, Splane, Taylor of St. Landry, Voorhies and Wadsworth voted in the affirmative—25 yeas; and

Messrs. Aubert, Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Dunn, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Lewis, McCallop, McRae, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Trist, Waddill, Wederstrandt, Wikoff, Winchester and Winder voted in the negative—34 nays.

Mr. CONRAD of New Orleans, moved for the reconsideration of the vote by which the section was lost, presented by Mr. Eustis, prescribing that in the nomination of judges, after the first appointment under this constitution, the incumbent shall be considered *ipso facto* before the senate for re-appointment.

The yeas and nays were then called for upon said motion, and

Messrs. Beatty, Benjamin, Briant, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, King, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, Saunders, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—29 yeas; and

Messrs. Aubert, Brazeale, Brent, Briant, Brumfield, Cade, Chambliss, Covillion, Downs, DuBouchel, Humble, Hynson, Kenner, Labauve, Legendre, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Waddill and Wederstrandt voted in the negative—33 nays.

Mr. GARCIA moved for the reconsideration of the vote by which one representative only was allowed to the parish of St John the Baptist, with a view of moving that two representatives be allowed tha parish.

On motion, the rules were dispensed with, in order to permit Mr. Garcia to address the Convention on the subject.

Mr. GARCIA said that the parish of St John the Baptist was one of the mos thickly settled parishes on the banks of the Mississippi. The delegates from St. James and from St. Charles, as well as the delegates from Jefferson, can corroborate this statement. Considerable settlements are progressing towards the lakes. Upon Lake Ponchartrain and German Lake there are already many settlers, and they are augmenting daily. The list of taxes prepared by the assessor is not, unfortunately, an unerring guide. The compensation allowed the assessors is not sufficient to enable them to traverse the more distant and inaccessible portions of the parish. I am myself aware of a number of inhabitants, owning property, whose names are not to be found on the tax list. There are others again, who exercise the right of suffrage upon property which is taxed in the name of their parents.

If implicit reliance were placed upon the tax list, it would be presumed that there were not more than from four to five hundred electors, at most, in the parish. But if a census were taken and the amount o population accurately ascertained, it would be found from the population, and reasonable to infer that there were many more, If the list of tax payers could be accurately had, it would be seen that the allotment of but one representative to St. John is not a fair proportion of the representation, in reference to other parishes. When universal suffrage shall be extended, it will be made evident that the number of electors fairly entitle this parish to greater weight than is assigned her. The delegates from the adjoining parishes are well aware of the large and increasing populatiou of St. John the Baptist. It is as densely settled as the parish of St. James, to which two representatives are asssigned. The only cause why there is an apparant disparity, arises from the fact that the assessment roll has been more fully prepared in the parish of St. James. St. James is composed of a wealthier population, and

ıe settlements are more compact. Ought ıe people of the parish of St. John to suf- r merely from omissions in the tax list? hen it can be demonstrated that she is ıtitled to an additional member, and hen you have accorded three members the parish of Plaquemines? Equality ıd justice, it seems to me, requires that ıe representation of St. John be placed at vo members, in place of but one, which ıe would be allowed if she had no popu- tion at all!

The yeas and nays were called for on Ir. Garcia's motion to reconsider the vote llotting one member to the parish of St. ohn the Baptist; and

Messrs. Briant, Claiborne, Conrad of rleans, Conrad of Jefferson, Derbes, unn, Garcia, Kenner, Legendre, Marigny, Iazureau, Pugh, Roman, Roselius, Saun- ers, Wadsworth and Winchester voted in ıe affirmative—17 yeas; and

Messrs. Beatty, Brazeale, Brent, Brum- eld, Burton, Cade, Cénas, Chambliss, hinn, Covillion, Downs, DuBouchel, ustis, Garrett, Guion, Hudspeth, Humble, lynson, King, Labauve, Lewis, McCallop, IcRae, Mayo, Peets, Porter, Prescott of t. Landry, Preston, Read, Scott of Baton ouge, Scott of Feliciana, Scott of Madi- on, Splane, Stephens, Taylor of St. Land- y, Voorhies, Waddill, Wederstrandt, Wi- off and Winchester voted in the negative— 1 nays.

Mr. Mayo would inquire if it would be ı order, under the rule, to require that all ıotions for reconsideration should be now aken up and determined?

The Chair decided that it would; those notions for reconsideration, already made, vhich were not taken up to day, would ome up to-morrow in the order of the lay.

Mr. Brent said that under this con- truction of the chair, he would move that he reconsideration asked for by the dele- gate from the German Coast (Mr. Garcia), upon the section relative to duelling, be now taken up and disposed of.

Mr. Beatty sustained the motion to dispose of the subject; and contended it was within the competency of the house to do so, notwithstanding the wishes of the mover for the reconsideration.

Mr. Garcia said he knew his rights as a member of this body, and no one could deprive him of them. He was familiar with parliamentary rules, as familiar, and perhaps more familiar than was the dele- gate from Lafourche, (Mr. Beatty.) The question for reconsideration involves the section adopted for the suppression of du- elling, and as this is a matter which I con- cieve of some importance and susceptible of results which may be deplored when it will be too late, I think at any rate that this impatient haste is not compatible with the gravity which should mark our delibe- rations. I shall insist that my motion be determined in a full house, and not be ta- ken up at a moment and under circumstan- ces which are decisive of its rejection. When I make a motion for reconsideration, it is with a view of carrying it. Whoever knows me must be aware that I would not voluntarily have interfered with a question which I conceive, has been rendered disgus- ting by the manner in which it has been treated and determined. But the evil has been done, and in asking solemnly a re- traçal of the steps by which it is accom- plished, I will observe that I am not, thank God, of the number of those hypocrites that conceal their cowardice under the guise of religion, and who pass their hand over their impassible countenances when they are denounced publicly as worthless and dishonest! Worthy men have a per- fect abhorrence of such contemptible base- ness, and I should deeply regret to see it consecrated, ennobled in the constitution of Louisiana.

Why not proscribe gambling and the gambler, that are certainly a greater pest to society than duelling and the duellist? How many men leave the gaming table where they have ruined their families and dishonored their own reputation. How many men in the indulgence of this selfish vice, that have sought oblivion of the past, of the wrongs they have inflicted upon their helpless wives and children, of the viola- tion of the most sacred engagements, in death? And yet no provision has been in- serted in your constitution excluding the gambler from office? No test or oath has been prescribed to establish by his own testimony his guilt! But you disqualify the man who neither offers insults nor sub- mits to them. You place beneath the mer- cy of the cowardly and the insolent, who may with impunity indulge their propensi-

ties to offer insults and indignities. You tell him that if he dares to resent an insult, he shall be proscribed, ostracised, banished from office and disqualified from the right of suffrage! What is the penalty for murder? The accused is tried and if he is acquitted he returns to the bosom of society with all his privileges! He may have been a cowardly assassin and have struck his blow, so as to avoid the vigilance of the law. He is not disqualified to hold office nor to cast his suffrage. But an honorable man who meets his antagonist face to face fairly, is punished with the loss of the most important privileges, even although no wound be inflicted, and the matter be amicably settled.

It seems to me that there is a conspiracy against the chivalric portion of our population. I am apprehensive that without knowing it, you are the dupes of some ambitious persons, whose craven spirits shrink from any responsibility, and who are anxious to exclude from a civil and political career, honorable men, whom they fear to meet on equal grounds. They will insult them, they will calumniate them, they will persecute them at their leisure in the public papers, and will force them to crouch beneath these insults, or otherwise lose their privileges of citizenship. And I would ask you, if you think that the youth of the country are to be restrained by a provision, which places the murderer, the assassin above the brave and honorable man?

(Mr. Lewis: I am sorry to interrupt the gentleman, but I do not think this matter properly under discussion.)

The Chair, (Mr. Miles Taylor) said that the gentleman was not out of order.

Mr. Garcia said he had but one word to reply to the delegate from St. Landry, (Mr. Lewis.) He had a right to express his motives for asking a reconsideration, and no one could deprive him of that right.

The Chair (Mr. M. Taylor,) said that strictly speaking according to the rule, the house had a right to insist upon the question being put, but inasmuch as it might operate as a surprise, he was induced to hope that the house would not take that course.

Whereupon, the Convention adjourned.

Friday, May 9, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings with prayer.

Mr. Porter moved for the reconsideration of the twenty-seventh section of the article upon the bill of rights.

Mr. Beatty opposed the motion to reconsider.

The question was taken and decided in the affirmative. The section was taken up, as follows:

Sec. —. The legislature shall have power to extend this constitution and the jurisdiction of the State, over all the territory which may hereafter be ascertained to be within her limits, or over any territory acquired by compact with any State, or with the United States, the same being done with the consent of the United States.

Mr. Porter moved for its adoption; the yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chinn, Chambliss, Covillion, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens Taylor of St. Landry, Trist, Voorhies Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—38 nays; and

Messrs. Aubert, Beatty, Briant, Derbes, Kenner, Legendre, Mazureau, Roman, Sellers and Taylor of Assumption voted in the negative—10 nays.

Mr. Porter moved to reconsider the vote adopting the section offered by Mr. Taylor of Assumption, relative to the acquisition of residence.

The yeas and nays being called for,

Messrs. Benjamin, Brent, Culbertson, Derbes, Dunn, Eustis, Guion, Humble, Porter, Prescott, of St. Landry, Read, Splane, Waddill and Wederstrandt voted in the affirmative—14 yeas; and

Messrs. Aubert, Beatty, Bourg, Brazeale, Briant, Brumfield, Burton, Carriere, Cade, Chambliss, Chinn, Covillion, Garrett, Hudspeth, Hynson, Kenner, Labauve, Legendre, Lewis, McCallop, Mayo, Mazureau, Peets, Prudhomme, Pugh, Roman,

Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wikoff and and Winder voted in the negative—38 nays.

Mr. Chinn moved that the reconsideration on the vote adopting the section relative to duelling, asked for by the delegate from the German Coast, (Mr. Garcia) be had.

Mr. Garcia said he wished it to be distinctly understood that he was opposed to this mischievous section, in every form and shape in which it might be presented. He had voted for the amendment offered by Mr. McRae, disfranchising the voter, because he wished the section to be as odious as it well could be, in order that it might fall by its own deformity. Let us for one moment examine the section. It strikes the citizen and incapacitates him from holding office and from exercising suffrage, while it permits the stranger to insult the citizen with impunity; it places it out of the power of the one to defend himself, while it confers upon the other the power and faculty of being insolent. We shall be a prey to the prejudices, to the criticisms and to the censures of mere sojourners, persons who visit our city for temporary purposes.

But why, would I ask you, should you prescribe the penalty of disqualification to hold public offices, and the exercise of the right of suffrage? There are professions that are more lucrative than public offices. Why do you not go further, and exclude the man who is so unfortunate as to be engaged in a duel, not only from political offices, from the right of suffrage, but from the practice of the law, for it is in that profession that the license under your section is likely to be most abusive? I repeat I am invincibly opposed to the section, because I think it no matter for a constitution; but, since it needs must pass, let the majority be consistent, and carry out this principle of monstrous legislation in all its frightful and revolting details. Several delegates who entertain similar views to my own, and among others the delegate from Feliciana (Mr. Ratliff) are absent, and I therefore move that the question be postponed until 12 o'clock, m. If the majority will carry this measure, let them give at least to the minority an opportunity of recording their votes and their sentiments against it.

Mr. Garcia's motion for the postponement of the question prevailed.

On motion of Mr. Dunn, the schedule was taken up, viz:

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and in order to carry the same into complete operation and effect, it is hereby declared and ordained:

That all laws of the State in force at the time of making the said alterations and amendments, 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.

The governor, secretary of state, judges and all other officers, both civil and military, shall continue in the exercise of the duties of their respective departments, until superseded and their successors duly inducted into office, pursuant to the provisions contained in the foregoing alterations and amendments.

On motion of Mr. Benjamin, the foregoing report was laid on the table subject to call.

It being 12 o'clock, m., Mr. Chinn asked that the vote be taken on Mr. Garcia's motion to reconsider the section upon duelling.

Mr. Garcia said that in moving for the reconsideration, it was his design if his motion proved successful, to offer an amendment extending the disqualification in the section, to the practice of all of the learned professions. He did this . . . . . .

Mr. Lewis said that it was not in order to address the house upon a motion for reconsideration.

Mr. Garcia replied that the president had decided that he could expose his reasons for the motion he had made.

Mr. Marigny signified that he would address the house.

Objection was made.

Mr. Garcia said the right of the delegate to be heard as a member of this body, was guaranteed by the constitution now in force. It was a right above any arbitrary rule of this body.

Mr. MARIGNY said that he felt persuaded that his efforts upon this occasion would be useless. That the majority under the pretext of applying a remedy to serious abuses, were determined to introduce a very questionable provision into the constitution, the consequences of which would be more deplorable than the evils it was designed to obviate. No one deplored duelling more than he did, in the manner in which it was now conducted. It is not, in his apprehension, a combat between men of honor with men of honor, but a butchery, in which the insulted party was the victim and the aggressor the public executioner! It was in the power of the latter to chose his weapons, and in this way the contest was rendered far from equal. The suppression of a custom which admits of such an abuse, is among the most ardent of my wishes. But at the same time, I would beg gentlemen to reflect, that there is no man, although he may be penetrated with the most moral feelings, and although you may hold over him the penalty of the penitentiary or of the gallows, who will tamely submit to an insult without asking reparation; and I would suggest that at any rate, under such circumstances, the offended party should be entitled to some indulgence, when he solicits the redintegration of his privileges. If you do not consent to some such modification, you give a preference by the operation of your constitutional provision to the murderer, the cowardly assassin, the burglar, and to those convicted of other infamous crimes, for with the pardon of the governor, they are restored to their social and political rights; but the honorable man, who may have been forced into a duel, is disfranchished for ever! You expose the most chivalric portion of the community to daily insults, you take away from them the means of protecting themselves against personal detraction and violence; in a word, you authorize murder and assassination in broad day-light.

Mr. VOORHIES said this was no time to discuss this question, nor did he propose doing so. But to all that has been urged with so much vehemence against the section, he would reply by a brief question? Are the people of Virginia less chivalric than the people of Louisiana, and if the adoption of a similar provision there has not been attended with any of those awful consequences that we have heard predicted, why should it be attended with these consequences in Louisiana?

Mr. Garcia was about replying, when the Chair (Mr. M. Taylor) reminded him, that under the rules, discussion could not proceed.

Mr. GARCIA said that if the Chair would refer to the actual constitution, which was not yet extinct, whatever it may be hereafter, the chair would find that his right of speech as a member of this body, was a constitutional right, and did not depend upon an arbitrary rule, arbitrarily enforced. The twenty-fourth section of the constitution of 1812, provides, "that no bill shall have the force of a law until on three several days it be read over in each house of the general assembly, and *free discussion* allowed thereon."

Mr. Garcia said that the gentleman from Attakapas (Mr. Voorhies) had asked a question, and he presumed it was intended that the question should be answered, if it could be answered. Now I am ready, (said Mr. G.) to answer that question. I will tell the gentleman, to begin with, that I have as high an estimation of the Virginians as any one, but it never entered into my head to institute a comparison between their chivalry and that of the people of Louisiana, to ascertain whether they possessed more chivalry or less chivalry. As to the question itself, I will cite a very important fact, showing what is the operation of this similar principle in Virginia, and in some of the other States. It is incontrovertible that there are more murders and assassinations committed in those States, respectively, than have ever been known in Louisiana; and there are more instances where the perpetration of these crimes have remained concealed, and the authors have never been discovered. If you take up the public papers, you will find the mysterious disappearance of some particular person announced, and that some other individual was found murdered, but that there is as yet no clue to discover the author of the deed. Is this the substitute for duelling in Louisiana, which the delegate from Attakapas, (Mr. Voorhies) would inflict upon us?

The yeas and nays were called for, on Mr. Garcia's motion to reconsider.

Messrs. Aubert, Benjamin, Bourg, Briant,

Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Du-Bouchel, Garcia, Kenner, Labauve, Legendre, Marigny, Mazureau, Porter, Prescott of St. Landry, Prudhomme, Roman, St. Amand, Saunders, Splane, Taylor of Assumption, Trist, Wadsworth, Wederstrandt, Wikoff and Winchester voted in the affirmative—30 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Chinn, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Preston, Pugh, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Waddill and Winder voted in the negative—34 nays.

Mr. Humble said he had voted in the negative, because if the section could be ameliorated by being amended, he was desirous of affording an opportunity to do so.

Mr. Culbertson stated that he had voted no, with a view of obviating some objections to the section, which he considered were well founded.

Mr. Porter was not in favor of duelling; but he voted for the reconsideration, because he thought the latter clause of the section ought to be struck out.

Mr. Waddill moved that the committee on revision be instructed to correct the phraseology so that the section should include all persons.

Mr. Garcia observed that the committee on revision had no such power. He was really humiliated at the result of the vote which had been just announced. You have granted a permit of insolence to the stranger, to the calumniator, and to the members of the legal profession, which latter need more restraint in the license to the tongue than any other class of the community. It is carrying very far the power of, by a bare majority of one or two, to pass such a section, affecting the natural right of the citizen to protect himself; and let it not be understood that I am influenced by any apprehensions for myself. Men of my age are not to be effected by the section. But it is in the name of that population against whom it is evidently directed, and who it is designed to exclude from all public offices, that I have spoken. Let it be remembered, the solemn warning that I have this day pronounced! When those you have proscribed will feel the weight of this perpetual proscription, and will have no other portion than blank despair, they will seek your children and ask of them an account of this transaction. They will seek revenge for the ignomy and disgrace that you have heaped upon them. Have you reflected and weighed the consequences? If you have reflected, I would entreat you to retrace your steps before it is too late. If you doom your children to be the victims of the injustice you have inflicted, you trample under foot the sentiments of paternity. If you tremble at the consequences of this injudicious act, in your own minds you must reprobate the vote you have just given!

The Convention then proceeded to the consideration of several reports of the committee upon revision.

The twenty-sixth section of the legislative article was taken up.

Sec. 26. All parish officers not otherwise provided for by this constitution, shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law. *Provided*, that the mode of appointment and tenure of office of all officers in the parish of Orleans shall remain as heretofore, unless otherwise provided for by the legislature.

Mr. Brent moved to amend the twenty-sixth section, by inserting in the proviso before the word "officers," the word "such."

The Chair decided the amendment to be out of order.

Mr. Prescott of St. Landry appealed from the decision of the chair, and the question being put, shall the decision of the chair be maintained; the yeas and nays being called for,

Messrs. Aubert, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Downs, Du-Bouchel, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, Kenner, Labauve, Legendre, Lewis, McRae, Marigny, Mazureau, Peets, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—42 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton,

Cade, Chambliss, Covillion, Culbertson, Hynson, McCallop, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Splane, Taylor of Assumption, Trist and Voorhies voted in the negative—19 nays.

The Convention then resumed the consideration of the reports of the committee upon revision, and after sanctioning several modifications in the phraseology, and rejecting others, on motion they adjourned.

SATURDAY, May 10, 1845.

The Convention met pursuant to adjournment.

At the request of the president, the Hon. Mr. STEPHENS opened the proceedings with prayer.

The PRESIDENT submitted a letter from Mr. J. Bayon, in relation to his compensation as printer of the debates of the Convention in French. Referred to the committee on contingent expenses.

Mr. READ, one of the committee on contingent expenses, submitted the following resolution, and the same was adopted:

Resolved, That the sum of two hundred and sixty-two dollars and fifteen cents be allowed B. M. Norman, bookseller and stationer, and that the committee on contingent expenses be authorized to issue a warrant for the same.

Mr. BRENT submitted the following resolution, which was adopted:

Resolved, That the committee of revision shall have the power to recommend for correction any inaccuracies which may be discovered in the constitution, after the second reading.

Mr. MAYO gave notice that when the judiciary article came up on its third reading, he would move to determine and fix in a more specific manner the qualifications of the judges of the supreme court.

On motion, the report of the committee of revision, on the article impeachment, was taken up and adopted as reported.

On motion, the article schedule, was taken up.

Mr. SAUNDERS submitted the following as a substitute for said article, and it was adopted:

"The constitution adopted in convention, January 2d, 1812, is declared to be superseded by the alterations and amendments herein adopted; and in order to carry the same into operation and effect, it is hereby declared and ordained

"That all laws of this State, in force at the time of the adoption of this constitution, and not inconsistent therewith, and all rights, actions and 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.

"The governor, secretary of state, judges, and all other officers, civil and military, shall continue in the exercise of the duties of their respective departments, until superseded under the authority of this constitution.

"*Provided*, That nominations and appointments to office, under this constitution, shall be made by the governor, to be elected under its authority."

Mr. SAUNDERS offered the following additional section; the same was adopted, and ordered to be transferred to the general provisions, viz:

"A treasurer of the State shall be elected biennially, by the joint ballot of the two houses of the general assembly."

Mr. KENNER moved to take up the majority report, on submitting the constitution to the people.

The yeas and nays being called for,

Messrs. Beatty, Bourg, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mayo, Porter, Prescott of St. Landry, Prudhomme, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor St. Landry, Trist, Voorhies, Winchester and Winder voted in the affirmative—43 yeas; and

Messrs. Brazeale, Brent, Covillion, DuBouchel, Eustis, Garrett, Humble, Hynson, Peets, Splane, Waddill and Wederstrandt voted in the negative—11 nays.

The majority report was then taken up, as follows, viz:

Ordered, That immediately after the adjournment of this Convention, the governor shalll issue his proclamation, directing the several officers of this State, authorized by law to hold elections for members of the

general assembly, to open and hold an election in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this amended constitution. And it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this amended constitution. Each voter shall express his opinion by depositing in the ballot box a ticket whereon shall be written "the constitution accepted," or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the commissioners designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of state, in conformity to the provisions of the existing law, upon the subject of elections.

Ordered, That upon the receipt of the said returns, it shall be the duty of the governor, the secretary of state, the attorney general and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given in said election for the ratification and rejection of this amended constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the amended constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this amended constitution shall be ordained and established as the constitution of Louisiana. But whether the amended constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the said election, showing the number of votes cast for and against the said constitution.

Ordered. That should this amended constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State, authorized by law to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846) for governor, lieutenant governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this amended constitution. And the said election shall be conducted; and the returns thereof made in conformity with the existing laws upon the subject of State elections.

Ordered, That the general assembly, elected under this amended constitution, shall convene at the State house, in the city of New Orleans, upon the second Monday of February next, after the election, (1846); and that the governor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

The minority report was then taken up, as follows, viz:

The undersigned, a minority of the committee appointed to divise a plan by which the amended constitution shall be carried into effect, having differed from the majority as to the time and manner of submitting it to the people for their approval or rejection, have deemed it incumbent on them to make the following counter report, for which they respectfully solicit the consideration of the Convention:

They are of opinion that there should be no greater delay in calling the people together in their several election districts, to decide upon the organic law which this Convention has framed for them, than is necessary for it to be published in all parts of the State, and to become generally known to the inhabitants; and as it is probable that this body will adjourn on or about the 10th instant, the undersigned proproposed that the second Monday of July next should be fixed upon for its submission to the electors. This would give the people two months' time to examine and discuss it, and to compare its provisions with those of the old constitution, a period quite sufficient to the apprehension of the undersigned, for it to be maturely considered and fully understood. At the present time the attention of the people is called to the proceedings of this Convention, and a

lively interest is felt in the result of its labors. The sooner the work is submitted to them the greater is the probability of obtaining for it a full, fair and unprejudiced expression of the public sentiment. It is to be feared that the long delay proposed by the majority of the committee will have a tendency to stifle enquiry on the subject, and cause an apathy to be felt which will defeat the object which the Convention has in view, to-wit: to procure the decision of a majority of the qualified electors approving or rejecting the amended constitution.

The undersigned are also fully persuaded that it is contrary to good policy and sound principle to allow any class of persons other than those who were heretofore entitled to the elective franchise, to vote for or against the new constitution. It was they who voted for the assembling of this Convention; they alone are the constituents of its members, and they only have the right to say whether the mandate given by them, has been executed in such a manner as to meet their approbation. The proposition of the majority of the committee to allow, in addition to those who already possess the qualifications of voters, all who may have been constituted electors under the new constitution, to vote at the assembling of the people to decide upon that instrument, is viewed by the undersigned as amounting, in effect, to a fraud upon the rights of the constituency of this Convention. It is hazarding nothing to declare that had such a proceeding been anticipated, before the people decided to call a Convention, a very large portion of those who voted for it would have refused to delegate a power which could be exercised so as to defeat their wishes, whilst they are mocked with a show of accountability on the part of their representatives. The undersigned cannot perceive how it can be pretended that persons who are not entitled to vote under the existing constitution, should be permitted to exercise this inestimable privilege, upon an occasion like that in question. Those persons had no agency in electing the members of this Convention, and could not in consequence instruct them as to their acts. They have, therefore, no right to decide upon that which has been done by those who are not their agents; and this Convention has no rightful power to diminish the constitutional privileges of the electors of this State, by extending the elective franchise, without their consent, to persons who are by that means enabled to nullify their wishes.

The undersigned do not deem it necessary to say any thing further in support of the views they have taken of the matter under consideration; they submit it to the wisdom and sound discretion of the Convention.

Respectfully,
THOS. W. CHINN,
GEORGE S. GUION.

May 5th, 1845.

Mr. Guion moved to amend the first section of the majority report, by striking out in the fifteenth line, the word "November," and inserting in lieu thereof the word "July."

Mr. Garrett called for the previous question. Lost.

Mr. Voorhies hoped that the motion to substitue July for November, would not prevail. The reports and journals of this Convention would scarcely be before the people before July. The people should have sufficient time to consider well, and weigh the provisions in the new constitution, before being called to vote upon it. November was quite early enough. Before that time nine-tenths of the people would not be thoroughly informed of the character of the constitution.

Mr. Brent said that these considerations had induced the majority of the committee to report in favor of November. It was early enough to submit the constitution for the decision of the people.

The yeas and nays were called for on Mr. Garcia's motion, and

Messrs. Beatty, Bourg, Briant, Chinn, Dunn, Guion, Hudspeth, King, Legendre, Lewis, Read, Sellers, Taylor of Assumption, Taylor of St. Landry and Winder voted in the affirmative—15 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Covillion, Downs, DuBouchel, Eustis, Garcia, Garrett, Humble, Hynson, Kenner, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane,

Stephens, Voorhies, Waddill, Wederstrandt and Winchester voted in the negative—41 nays.

Mr. Guion then moved to amend the same section, by striking out in the fifteenth line the words "and under this amended constitution," so that the right to vote for the adoption or rejection of the constitution, be confined to actual voters under the constitution of 1812.

Mr. Brent said he would make a few observations; he did not propose to make an argument. It was apparent to his mind that it was our duty to submit the question of the adoption or rejection of the constitution to all who were entitled to vote under it. There are but two questions for us to resolve. The first is, have we the powes to do so? The second is, if we have the power, ought we to exercise it? Have we the power to put the constitution in force without submitting it to the people at all? If we assumed that power, we would only be following the precedent set us by nine out of ten of the several conventions held in the different States of the Union, for the purpose of forming their constitutions. If we have the power to decree at once that the constitution is in force, then upon every question those entitled to suffrage under it would have the right to vote. The possession of the greater power necessarily involves the possession of the lesser power. There can be no dispute that we have the power, and the next question is, ought we to exercise it? The conclusion is, that the constitution embodies the popular will; whether this conclusion be right or wrong, in reference to its general provisions, it, nevertheless, is beyond all possible doubt that the provision extending the right of suffrage, is eminently the deliberate expression of that will. That every free white male who has attained the age of twenty-one years, and resided two years in the State, and has the other qualifications prescribed by the constitution, ought to exercise the right of suffrage. That is an inherent right.

If we are satisfied that we have the power, and that in its exercise we but carry out the popular will, then we are bound to carry out that will, and if we fail to do so, we commit a great error. In regard to precedents, suppose this constitution had been the first constitution adopted in Louisiana, and that it were in like manner submitted to the ratification of the people, would not all those entitled to suffrage under it be entitled to vote upon the question whether it should be accepted or rejected? But, for the purpose of removeing every vestige of doubt, I will refer to the constitutions of some of our sister States that have decided the question.

(Mr. Brent read a similar proposition in the constitution of Alabama and in the constitution of Tennessee.)

Is there any thing (asked Mr. B.) novel or unusual in this proceeding? Did the people not vote for a convention with the understanding that the result of its labors should be submitted to them for ratification? Was that a part of the compact? There might have been some portion of the people that voted with that understanding. But the great body of the people expected that we would follow the example set by the conventions in our sister States, and by our own convention in 1812.

Mr. Eustis said that before taking a step which he considered a very important one, he would submit to the convention the reasons that governed his vote. He did not expect to influence the minds of others. The subject may appear at first to be a very difficult one. The time allowed did not admit of discussion, and it was not the sense of the Convention that there should be further debate. He had examined the subject with a great deal of care, for he never gave a vote without patient examination, and the best consideration of which his judgment was susceptible. The question involved is this: whether the constitution shall be submitted to the constituency under the old constitution, or to the constituency that are to live under the new constitution. To arrive at a correct solution of this question, he had sought for the best lights, intending to be governed by them without passion and without prejudice. His investigation had convinced him that the position of the delegate from Rapides (Mr. Brent) was correct; that the constitution ought to be submitted to those who were to live under it. What had tended considerably to strengthen this conviction, was what he had heard upon this floor in reference to the frauds that have been committed upon the ballot box. For myself, (said Mr. Eustis) I have never

made a voter, directly or indirectly. I am innocent of any thing of that kind.

I would ask gentlemen what do they expect to gain by restricting suffrage upon the question of the adoption of the constitution? It is admitted on all hands that our recent elections have been degraded by innumerable frauds. If any doubt exist as to the assertion having been repeated over and over again by gentlemen of this body, all that we have to do is to refer to the debates that have taken place since the commencement of the session at Jackson. These fraudulent votes have been cast upon the question of calling a convention; they have been cast in the election of delegates to this body, and they will be cast again upon the question of the adoption or rejection of this constitution, although the same restriction be applied. They will be cast to the exclusion of those to whom the new constitution gives the right of suffrage; but the result upon the question of adoption or rejection will not vary one straw. The conscientious man, who does not pay a State tax, and is not eligible to suffrage under the old constitution, will not attempt to vote; but the man who is regardless of the restriction and intent upon voting, will vote. The property qualification has been evaded before and can be evaded again. You give then to the unscrupulous the facility of voting while you exclude their betters, who will not have recourse to indirect means. I think this view of the case ought to be decisive of the question.

But, I humbly conceive that we ought to attach great weight to precedent. The constitution of the State of Tennessee puts the matter beyond all doubt. The respectable body that framed that constitution have decided it. Independent of that consideration, if we examine the point at issue, we shall find it unattended with any great embarrassment. In the first place, it is the sense of the constituency under the constitution of 1812, that suffrage should be extended by abolishing the property qualification. This is the deliberate opinion of the freeholders. The call for the Convention was preceded by two elections, in which the sense of the people was taken as to the expediency of the measure. You then had the freeholders at the polls in the election of delegates, whose representatives we are. It is beyond doubt that in this matter of suffrage we have their consent; that is to say, it is their will, that every free white male, who has attained the age of twenty-one years, a citizen of the United States, who has resided two years in the State, should have the right to vote. This is one of the clauses that were brought under the particular attention of the voters, and it is in virtue of their decesion of that question affirmatively, that this Convention now sits. It is a foregone conclusion. As was well observed by the delegate from Rapides, (Mr. Brent) the act calling this Convention is final as to the express will of the people, that suffrage shall be extended; and it is but carrying out that will to declare that the question for the adoption of the constitution shall be submitted as well to the voters under the new constitution as to those under the old constitution; both classes of citizens are equally interested.

I would ask gentlemen if it would not be perfectly competent for this body to decree the constitution at once, without submitting it to the people?

But why consume the valuable time of the Convention by arguing the question further? It has been resolved—solemnly resolved—by a body distinguished by the wisest statesmen of the age. Mr. Randolph, in the Virginia convention, proposed to submit the new constitution to the old electors only. He scouted at the idea that it should be submitted to the electors under the new constitution. The question was put upon his proposition and the yeas and nays were called for. Only twenty-eight voted in favor of it; sixty-six voted against it, among whom are the names of Marshall and of Barbour. They determined the very question now before *us*, that the constitution *ought to be submitted to those that were to be affected by it!* That was the decision of that enligned body of men; and that decision is enough to satisfy my mind if I entertained any doubts.

Mr. Guion said that he rose for the purpose of very briefly replying to the delegate from Rapides, (Mr. Brent) and the delegate from New Orleans (Mr. Eustis). Both these gentlemen had assumed the ground that the Convention were fully competent to decree the constitution without submitting it to the people. He con-

ceded that power, but he maintained that the Convention were morally bound, if they submitted the constitution, to submit the whole and not a part, for the ratification of the people. The new constitution provides for the extension of suffrage. It proposes many other changes from the old constitution. All these changes are to be submitted to the people, with a single reservation: the provision to extend suffrage. That is to be decreed and it is to go into operation in anticipation of all the other provisions of the constitution. If not probable, it is at least possible that the new constitution may be rejected. If our work be destroyed, what becomes of our power? I think that argument conclusive, and I shall say nothing further on that head.

The people have, in my opinion, declared their wish that our work should be submitted for their approval. The gentleman from Rapides (Mr. Brent) has said that the people did not expect it would be submitted. It may be so with the gentleman's constituents, but with my constituents the reverse is the case. The people in my section of the State expect it to be submitted to them for their approval or rejection. But to whom is it to be submitted? To those that elected us, and by whose power we are here? or is it to be submitted as well to those who have not as yet, and cannot have, until the constitution be put in force, any portion of the political power of the State? We might as well submit the new constitution to the people of Mississippi, or to the people of Virginia! We are the mandatories, the agents only of those that elected us. We have assembled and have prosecuted our labors, in obedience, and under the authority of their will, and it is they and they alone, who are competent to determine whether our work shall be accepted or rejected.

Mr. CHINN called for the previous question. His motion was lost by the casting vote of the president.

Mr. C. M. CONRAD said he had but a few remarks to make. He conceived the question to be an important one; not that it would have any material bearing upon the adoption or rejection of the constitution, but because it involved an important principle. It is important that the Convention should act correctly upon it. He would not undertake to examine what were the civil functions of society, and how far it was competent to impose limits upon political power; it was to his mind perfectly clear that society had a right to determine who should exercise political power. The delegate from Rapides (Mr. Brent) had discussed the question as if we were about to deprive a portion of the people of the right to vote. How can it be said that we deprive them of the right to vote? They must have had that right for us to deprive them of it. It is impossible we should deprive them of that which they never possessed. Until the constitution shall be ratified by the electors under the old constitution, those to whom suffrage is extended cannot be said to form part and parcel of the political power of the State.

The delegate from Lafourche, (said Mr. C.) conceded more than I would be willing to concede. He conceded that the Convention had the power to decree the substitute for the old constitution to be in force, without submitting it to the people. I have serious doubts whether the Convention have any such power. We were assembled under an act specifying the amendments to be made, with the assent of the people, to the old constitution. Had we confined ourselves to these amendments, and respected the other dispositions of the old constitution which it was never proposed to amend, there might be some force in the argument that the constitution would have been in force without the necessity of submitting it to the people. But instead of limiting itself to the amendments specified in the acts by which the sense of the people were consulted, the Convention have proposed to revolutionize the State. They have proceeded to effect a thorough revolution, a bloodless revolution it is true, but still a revolution. They have made amendments which the people never dreamed of. A large portion of the people were under the conviction that the old constitution would remain untouched, except in the particular amendments to which reference was had in the act calling the Convention. Let me say that many of my constituents, a great number of respectable persons, acted under a thorough persuasion that the proceedings of this body would be confined to the law by which it was convened. Had they anticipated what has

transpired, I am confident they would never have voted for this Convention. Several other delegates can make a similar remark in reference to a respectable number of their constituents.

It being clear that we are bound to submit the constitution we have prepared, and which annuls if adopted the old constitution as a whole, the next question is to determine, to whom are we to submit it? Shall we submit it exclusively to those citizens from whom we have derived our powers, or shall it be equally submitted to those to whom the right of suffrage has been extended? It can scarcely be contended that the latter are to be comprehended in the submission, unless it be assumed that the Convention may submit one portion of the constitution and decree another. But whose agents are we? Whose mandatories are we? Are we the representatives in part of those that have no present share in the political power of the State, and can have no share in the political power until the old constitution issuperseded by the new? Until the new constitution be ratified by our constituents, the political power resides in them only; they are possessed of it in virtue of the constitution of 1812. No other class of voters are known. The old constitution has pointed out what the qualifications of an elector shall be. That clause of the old constitution, like every other clause in that instrument, is binding until the new constitution shall be adopted. But who can decree the substitution of the new constitution for the old one? Only those that are entitled to suffrage under the old constitution. And if the new constitution be rejected, it will not surely be contended, and yet it may well be contended by a parity of reasoning, that the clause extending the right of suffrage has never been rejected by the people, because it was never submitted to them, and that having been decreed by the Convention, it is therefore binding; notwithstanding all the other provisions were rejected. If we are here the representatives of the population *en masse*, we are the representatives of women and children, of persons of color and of negroes, as well as of those persons who have not yet acquired the right of suffrage, and if we are to submit the constitution to the latter for approval, on the principle enunciated by my colleague (Mr. Eustis,) that they are to be effected by it, then on the same principle, we should submit it to women and children, free persons of color and negroes.

The delegate from Rapides (Mr. Brent) has attempted to sustain his proposition by precedents. Let us see what these precedents are worth. Upon reference to the clause to which he referred in the constitution of Tennessee, it will be seen that so far from extending the right of suffrage to other than original electors, the intent of the clause is to limit suffrage, and to exclude some persons that were before entitled to it. By comparing the clause with the schedule it appears that formerly persons of color had the privilege of suffrage conferred upon them in that State, and it was deemed expedient to withdraw from them that privilege. I shall say nothing as to the fact itself, but I would ask gentlemen a simple question. Suppose the proposition of an honorable delegate had been pressed, and that proposition was not peculiar to that gentleman, that free persons of color in Louisiana should have the right of suffrage: and suppose it had been embodied in the constitution. would gentlemen pretend that this class of persons had a right to vote upon the adoption of this constitution? Their argument would tend to that result. It may hereafter be considered expedient that this should be done. It may be decreed by some future Convention, and in the action of this body on the present occasion, they will find a precedent. Many persons entertain the idea that free persons of color should be interested in the government; that it would be expedient to interest them. These are not my opinions, but they are entertained, and may hereafter under the multifarious changes to which the State is subjected, be acted upon in some future Convention. They may decree the principle in some future constitution. Would it be proper that in submitting it to the people for ratification, it should be ecreedd that all the voters under the new constitution should vote upon the question of its adoption or rejection. And yet if we pass a similar clause here, we shall establish a precedent for all future time. But further, a Convention might abolish slavery, and according to the same principle they would be called upon to participate in the decis-

ion of that question, if it were submitted to the people, because they were "to be effected by it." I trust that the Convention will sustain the motion of the delegate from Lafourche, (Mr. Guion,) and reject a principle which is radically wrong and extremely dangerous.

The previous question was called for and sustained.

The question was then taken on the adoption of Mr. Guion's amendment; and the yeas and nays were called for,

Messrs. Aubert, Beatty, Boudousquie, Bourg, Briant, Cade, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, Sellers, Taylor of St. Landry, Wadsworth and Winder voted in the affirmative—31 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, DuBouchel, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of Assumption, Voorhies, Waddill, Wederstrandt and Winchester voted in the negative—32 nays; consequently said motion was lost.

Mr. Downs moved to amend said section by inserting after the word "commissioners," in the twenty-fifth line, the words "and parish judges;" which motion prevailed.

Mr. Downs moved that said report be laid on the table indefinitely.

Mr. Downs said that in making this motion he had little expectation that it would prevail. He made it, not because he had any particular objection to the section, not that he distrusted the enlightened judgments of the people in this or any other matter, but because he considered it essential for the repose and tranquility of the State, that this vexed and exciting question of constitutional reform should be definitively settled. The people were anxious to be relieved from the solicitude which they had felt for a series of years, and at the earliest moment to enjoy the advantages of a more perfect and better system of government—one more adapted to their wants and feelings, than that provided by the constitution of 1812.

The question has been mooted, whether this body were bound to submit the result of their labors to the anticipation of the people. As far as precedent goes, it seems clearly established that there is no obligation to do so, and on most occasions the formality has been dispensed with. But whatever may, under ordinary circumstances, be alledged in favor of the practice, and however much it may comport with the respect which, as public servants, we should exhibit for the will of the people, yet in the present instance, if the precedent were established in favor of a reference to the source of power for its fiat for or against our work, there are weighty reasons why it should not be followed, under the peculiar circumstances which present themselves, and which I shall briefly unfold.

I again repeat that it is not from any want of confidence in the people, nor from the apprehension that there will be any great contrariety of opinion as to the merits of the constitution. I am actuated by no such feeling. But it must not be overlooked, that large interests are effected, and that these interests will be arrayed in direct opposition to the adoption of the constitution. I feel satisfied that, although it is not all I could have wished, yet upon the whole it deserves and will obtain a large preponderence of the votes in the Convention, and a large preponderance of the popular vote, if false issues, and insiduous attempts be not made to defeat it in detail. It is a decided improvement, to say the least, upon the old constitution. I have reflected maturely upon the subject, and I am persuaded that it would be better to carry it into effect at once. The people have been harrassed for years with this question. As one of its earliest and most ardent friends, it may well be presumed how anxious I am now that it is consummated, that we should derive the benefits which we have a right to expect from it, and not expose the possession of them to the remotest accident. The very possibility that it might be rejected by improper and indirect means, and without a full expression of the voice of the people, through any mischance, ought to admonish us to

avoid even that risk, as remote as it may be. If it were rejected, what would be the unfortunate position of the friends of reform? They would be thrown back to 1837, and the people would be dispirited, worn out and disheartened. Is not that risking too much? And should that be the result, would we not lay ourselves open to the just censure of our constituents?

So far as the people are concerned, they never expexted that we should submit the constitution for their action. We were elected to represent their wishes, and if we received no positive instructions, our intercourse with them pretty plainly indicated what were the reforms they expected at our hands. In the act calling the Convention, there is not one word indicating the necessity for a reference. But our legislative history is not without an example that it was not expected, nor was it deemed desirable that we should make this submission. In 1843 a similar proposition was offered in the house, to the one before us, and rejected. We have, therefore, not only precedent in the constitution of 1812, authority in the laws for convening the Convention, but the distinct and explicit action of the popular branch of the legislature, rejecting a proposition for submitting the constitution to the people when it should be finally prepared. There is one fact to which some attention ought to be paid. Although a number of friends to the new constitution, here and elsewhere, are in favor of its submission to the people, there is not a single one of its bitterest opponents who does not favor that course. They are as anxious for this reference as they were averse to the slightest innovation upon the old constitution. I would beg the friends of reform to pause, and seriously reflect. What would their constituents say, if by this reference this great measure of popular reform were lost?

What would their constituents do, if they were here in person? Would they expose this important work to the remotest possibility of defeat; to the machinations and secret plottings of its enemies? They would say that this was a crisis when their representatives should have thrown themselves into the breach and have saved the constitution at no matter what personal risk. What the people would do, if they were here *en masse*, their representatives were bound to do.

I am aware that in making this motion and advocating it, I may lay myself open to attack, but I would consider myself unworthy of a seat upon this floor, if personal considerations weighed with me a feather in the balance against what I consider is for the interest and welfare of the people. I know it may be said in a certain quarter, that I am afraid of referring the constitution to the people—that I am afraid of the people. I am not afraid of the people. But I will tell gentlemen of whom I am afraid. I am afraid of the office holders; I am afraid of the men whose income depends upon the rejection of this constitution. I do not pretend to say that other men in similar circumstances, would act differently. There too, may be men among them who are above all considerations of self. But it must not be forgotten that they have the means of wielding some power. There are forty-six parish judges; twelve or fifteen judges of a higher grade, five judges of the supreme court, clerks of court in every parish, whose life tenure to office is to be swept away. Look at the enormous salaries that are to be effected. The independence of these functionaries from any restraint, save their own will and pleasure. Why they have privileges that are better than titles to nobility. There are among them men of great abilities, and the influence of these men, personal and official, run through all the ramifications of society. It is with this serried body of office holders that the struggle is to he had; that the private citizen is to contend, to wrench from them their extraordinary privileges, and to establish a more equal state of things through a reformed constitution. I do not wish to be understood as attributing bad motives to them. Some may be found among them who are exceptions to the general rule. It is their combination that I fear, in referring the constitution. If it were possible, no office holder should be allowed to vote upon a question in which he is directly interested. I wish to save the people from a contest in so unfair an arena. I do not wish to hazard the verdict of the people already pronounced, that the old system of official abuses in this State should be abolished. In three days we can make the constitution the supreme law of

the land. Every interest and every section of the State is fairly represented, and the constitution has been fully discussed. If the matter be kept in agitation, it may possibly be lost; at any rate, it will be exposed to the herculean resistance of its enemies, if not openly, it will be done covertly and in the dark. With due deference for those political friends who are like myself, steadfast in the cause of reform, I throw out these suggestions: I have lately returned from the country and I found the people anxious that we should adopt the constitution, and put it immediately in vigor. I have no doubt that this is the desire of the great body of the people. The duration of this body has been extended much longer than it was anticipated, it has adjourned from one place to another, and there has been a feverish anxiety that its labors should be consummated and placed beyond all possible contingencies. Whatever may be the result, I am satisfied I have done my duty.

Mr. KENNER said, when the delegate from Ouachita (Mr. Downs) first announced his intention to make the motion he did, I intended to have followed it by a very unpopular motion, the call for the previous question. The gentleman will excuse me when I say, that it struck a plain man like myself, with some surprise, that such a proposition should have come from him. It seemed to me a strange situation in man's ingenious work, that one who has stood in the foremost ranks could have by any legerdemain so suddenly have changed his position. Had the report of the majority of the committee been rejected, then I might have very well have conceived some reason for the gentleman's motion. But that report prevailed. The delegate (Mr. Downs) in all that he has been pleased to tell us, gives us but a single reason why the constitution should not be submitted to the people. And that is, that he fears it will be rejected. Now I would ask the delegate from Ouachita, for whom are we making a constitution? Is it for the Convention, or is it for the people? If we are making the constitution for the people, then I consider it our duty to lay it before them. We ought not to lose sight of the responsibility we owe to the people, nor attempt to hedge ourselves behind the doctrine that it is unsafe to commit the result of our labors to the judgment of the people. If the constitution we have made is not in accordance with the wishes of the people, they will reject it. And they ought to reject it under such circumstances. For myself, I shall vote for the constitution here, and I shall vote for it at the ballot box. If the people should dislike it, and prefer the constitution of 1812, so be it. I shall most certainly submit to their better judgment.

But sir, the gentleman says that it is not of the people he is so afraid, but of the band of office holders, of judges, sheriffs, intriguers—

[Mr. DOWNS: I did not say intriguers.]

Mr. KENNER: I am glad to find that I am mistaken. But how does the gentleman's fears comport with the fact, that the people have the choice in their own hands. How can the band of office holders expect to control the people? I do not think it is at all likely they will attempt it. In fact, I have a better opinion of their discretion, and their disinterestedness. It is fallacious to believe any thing of the kind. If the people reject the constitution, it will be because they do not like it, and not from any influence to be exercised over them. It may be the gentleman's doctrine to distrust them, but although I do not cry out the people, the people, on every occasion, it is not my doctrine. I do not know whether I shall call for the previous question or not?

Mr. DOWNS said: I am sorry to be under the necessity of saying another word. I do not understand what the delegate from Ascension (Mr. Kenner) means, by legerdemain and changes. That gentleman ought to know that I have never changed. If legerdemain be incidental to changes, then I would say that change is not so novel with him.

Mr. KENNER said that the burden of the song of some gentlemen in this house had been, the people, the people, the people, so much so, that a bystander, would natually conclude that we were apart from the people. At the very head and front and the ablest advocate of the well beloved people, stood the delegate from Ouachita, (Mr. Downs.) I expressed some surprise and enquired by what legerdemain it was, that the gentleman should have shuffled out of his front position and have distrusted himself the dear people. I did not say the gentleman

had changed, I am not sufficiently acquainted with his sentiments to make such an assertion.

Mr. WADSWORTH would remark, that he had heard the delegate from Ouachita, (Mr. Downs,) on several occasions question the necessity of submitting the constitution.

Messrs. CHINN and CULBERTSON made a similar statement.

Mr. HUMBLE stated, he was convinced that his constiuents were in favor of the adoption of this constitution without submitting it.

The yeas and nays were called for on Mr. DOWNS' motion.

Messrs. Downs, Humble and Waddill voted in the affirmative—3 yeas ; and

Messrs. Aubert, Beatty, Bourg, Benjamin, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Cenas, Chinn, Covillion, Conrad of Orleans, Culbertson, Claiborne, Derbes, Dunn, Du Bouchel, Eustis, Garcia, Guion, Hudspeth, Hynson, Kenner, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Mayo, Marigny, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Pugh, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the negative—59 nays ; consequently said motion was lost.

Mr. LEWIS moved that the word "amended" be stricken out wherever it precedes the word "constitution;" which motion prevailed.

Mr. PRESTON moved to amend said section by striking out the words "by depositing in the ballot-box a ticket whereon shall be written, the constitution accepted or the constitution rejected," and insert in lieu thereof "orally for or against the constitution."

Mr. PRESTON advocated this mode as being the best and safest. It could do no harm and might be productive of infinite good.

Mr. ROSELIUS was indifferent which system prevailed. It was immaterial. But one or the other system ought to be exclusively adopted.

Mr. PORTER said upon the abstract principle, he was in favor of voting *viva voce*.

Mr. MILES TAYLOR said he hoped the amendment would not be adopted. The ballot system was the true system for elections by the people. Let each one vote as his judgment may prompt him and let his vote, if he chooses, be between him and his maker.

Mr. PRESTON's amendment was lost—yeas 24 ; nays 35.

The first order was then adopted unanimously, 57 members present.

The second order was then taken up.

Mr. CONRAD of Orleans moved to amend said order by inserting after the word "cast," in the twentieth line, the words "in each parish," which motion prevailed.

On motion the third order was taken up.

Mr. LEDOUX moved to amend said order by striking out "the third Monday of January," and substituting "first Monday of March." Mr. Ledoux thought this delay expedient. He had come to that conclusion by the experience he had acquired in the office of the governor, as to the delays attending the transmission of the returns of election.

Mr. LEWIS opposed this amendment. He thought that by postponing the election to so distant a period, it would interfere with the session of the legislature, immediately ensuing. That session would continue for at least three months and it would force the legislature to remain in the city during the sickly season.

The yeas and nays being called for,

Messrs. Cenas, Claiborne, Covillion, Downs, Eustis, Garcia, Garrett, Humble, Labauve, Ledoux, Marigny, Prescott of St. Landry, Scott of Baton Rouge, Soule, Taylor of Assumption and Voorhies voted in the affirmative—16 yeas; and

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hudspeth, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Mayo, Peets, Porter, Preston, Pugh, Read Roman, Roselius, Sellers, Scott of Feliciana, Scott of Madison, Stephens, Taylor of St. Landry, Waddill, Wederstrandt, Winchester and Winder voted in the negative —40 nays ; consequently said motion was lost and the order as reported was adopted.

The fourth order was then taken up and adopted without debate.

Mr. READ, on behalf of the committee on contingent expenses, submitted the following report, viz:

The committee on contingent expenses have carefully examined the claims presented by Jerome Bayon; and by Messrs. Besançon, Ferguson & Co., and have come to the conclusion that the sum of three thousand dollars should be allowed to Mr. Jerome Bayon, in full payment for all printing (including subscription for the paper) already done and remaining to be done; and that the sum of three thousand three hundred and sixty dollars should be allowed to Messrs. Besançon, Ferguson & Co., in full payment for all printing (including subscription for paper) already done and remaining to be done; and the committee recommend that said sums be paid to the printers, deducting therefrom the sum of five hundred dollars paid to Mr. Bayon, and the sum of twelve hundred and fifty dollars paid to Messrs. Besançon, Ferguson & Co., and that the said committee be authorised to issue a warrant in favor of Mr. Jerome Bayon, for the sum of two thousand five hundred dollars, and a warrant in favor of Messrs. Besançon, Ferguson and Co., for the sum of two thousand one hundred and ten dollars—these being the amounts allowed after making the above deductions.

(Signed) A. READ,
J. P. BENJAMIN,
L. SAUNDERS,
C. ROSELIUS.

Mr. BEATTY offered the following resolution, and the same was adopted, viz:

Resolved, That the printers be furnished with copies of all the articles of the constitution, to be printed for the use of the Convention, by Monday next.

On motion the Convention adjourned till 9 o'clock, a. m.

MONDAY, May 12, 1845.

The Convention met pursuant to adjournment.

The Hon. Mr. STEPHENS opened the proceedings with prayer.

The committee upon revision presented their reports upon the articles general provisions and public education, which were taken up and concurred in.

Mr. CONRAD of Orleans offered the following section, which was adopted, and the same transferred to the executive department, viz:

"The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for by this constitution; but no person who has been nominated for office, and rejected by the senate, shall be appointed to the same office during the recess of the senate."

Mr. CLAIBORNE offered the following additional section:

He said it met with the unanimous concurrence of the Orleans delegation. It was essential in order to prevent an abuse of the taxing power by municipal corporations.

"The legislature may delegate to political corporations the power to pass local ordinances; *provided*, that such corporations shall not have power to borrow money or issue their bonds or obligations, except for purposes strictly relative to the administration of municipal affairs."

Mr. WADSWORTH moved to amend the said section, by adding at the end of the same the words "and for purposes of public education," which motion prevailed, and the amendment was adopted.

Mr. BEATTY moved to lay on the table indefinitely the section as amended; which motion was lost—yeas 21; nays 31.

Mr. BRENT moved to amend said section by striking out the words "except for purposes strictly relative to the administration of their municipal affairs, and for purposes of public education;" which motion was lost—yeas 26; nays 36.

Mr MAYO then offered to amend said section by adding to the same the following proviso, viz:

"*Provided*, that no authority shall ever be granted by the legislature to any corporations to exercise any banking or discounting privileges, nor to issue notes, bills, or obligations of any kind, to be used as currency, and that no corporation shall ever be permitted to exercise any such powers."

Mr. BRENT offered as a substitute for the provision offered by Mr. Mayo, the following, viz:

"*Provided further*, that no political corporation shall ever be authorized to issue

any notes, or bills or other obligations, payable to bearer or endorsed in blank."

Mr. BRENT moved for the adoption of the same.

The yeas and nays being called for,

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soule, Splane, Stephens, Taylor of Assumption, Voorhies, Waddill, Wadsworth and Wederstrandt voted in the affirmative—40 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cenas, Chinn, Claiborne, Conrad of Orleans, Culbertson, Derbes, Dunn, Guion, Kenner, Legendre, Roman, St. Amand, Saunders, Taylor of S. Landry and Winchester voted in the negative—19 nays; consequently said motion was carried and the substitute was adopted.

Mr. BEATTY moved to amend said section by striking out the words "the legislature may delegate to political corporations the power to pass local ordinances, provided that such," and insert at the commencement of said section the word "municipal;" which amendment was agreed to —yeas 38; nays 18.

The yeas and nays being called for on the adoption of the section as amended,

"Municipal corporations shall never be authorized to borrow, or issue their bonds or obligations, except for purposes strictly relative to the administration of ther municipal offices, and for purposes of public education. *Provided fnrther*, that no political corporation shall ever be authorized to issue any notes or bills or obligations, payable to order or endorsed in blank."

Messrs. Beatty, Bourg, Carriere, McCallop and Voorhies voted in the affirmative—5 yeas; and

Messrs. Benjamin, Brazeale, Brent, Briant, Burton, Cade, Cenas, Chinn, Chambliss, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Downs, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, Mayo, Porter, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soule, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the negative—50 nays; consequently said motion was lost.

Mr. SOULE submitted the following resolution, and the same was adopted, viz:

Resolved, that the constitution be enrolled so as to substitute the division by titles to that of articles, and that the sections be amended under the name of articles, in a continuing run of figures, from the first to the last.

On motion the preamble was taken up for its third reading and adopted.

The article on the division of powers was then taken up and read for the third time and adopted.

The judiciary article was then taken up.

Mr. C. M. CONRAD moved that the first section be so amended as to restore the words "and in such courts in the city of New Orleans as the legislature may from time to time direct."

Mr. BEATTY moved a sub-amendment, to strike out of the principal amendment the words "in the city of New Orleans."

Mr. BENJAMIN moved to lay the amendments on the table indefinitely.

The yeas and nays were called for.

Messrs. Aubert, Beatty, Bourg, Benjamin, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Chinn, Eustis, Guion, Hudspeth, Humble, Hynson, Kenner, Ledoux, Lewis, McCallop, McRae, Mayo, Peets, Penn, Prescott of Avoyelles, Prescott, of St. Landry, Preston, Prudhomme, Pugh, Read, Roman, Roselius, Scott of Baton Rouge, Sellers, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—43 yeas; and

Messrs. Briant, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Downs, Legendre, Marigny, Porter, St. Amand, Saunders, Scott of Feliciana, Soulé and Taylor of Assumption voted in the negative—15 nays.

Mr. PENN moved to strike out that portion of the third section fixing the salary of the judges of the supreme court, and to substitute in lieu thereof the following:

"The said judges shall receive such salary as may be fixed by the legislature."

Mr. P. stated that he was not present when this clause was passed, and insisted upon his right to record his vote against it.

He would move for the yeas and nays upon his proposition for that purpose.

Objection being made, and Mr. PENN insisting upon his motion,

Mr. MILES TAYLOR offered the following resolution:

Resolved, that permission be granted to Mr. PENN, senatorial delegate from the parishes of Washington, Livingston and St. Helena to record his vote in the negative upon the clause fixing the salaries in the constitution of the judges of the supreme court.

Said resolution was adopted.

Whereupon, Mr. PENN withdrew his motion.

Mr. ROSELIUS moved to amend the eighth section of the judiciary article by adding the following:

"And in all cases when the judges shall concurr in opinion that the judgment should be reversed, but differ in the judgment to be rendered, the opinion of the chief justice shall prevail."

Said motion was lost.

The executive article was then taken up, and read for the third time.

Whereupon, on motion, the Convention adjourned until 5 o'clock, p. m.

MONDAY EVENING, MAY 12, 1845.

The Convention met pursuant to adjournment.

On motion of Mr. READ, the Convention took up the report of the committee on contingent expenses, upon the claims of the printers to the Convention.

Mr. SAUNDERS moved for the adoption of the report.

Mr. LEWIS moved to amend the report by adding the following:

"And that the warrants shall not be delivered to the printers until they have completed the publication of the journal and debates and delivered them over to the secretary."

The report as amended, was then adopted.

Mr. BRENT then offered the following resolution:

Resolved, That an additional compensation of five hundred dollars be allowed ot Messrs. Besançon, Ferguson & Co., printers to the Convention of the debates and journals in English.

Mr. CHINN opposed the additional appropriation.

Mr. BEATTY asked, what was the amount allowed to the printer of the debates and journals in French?

Mr. BENJAMIN said that the committee on contingent expenses were guided in fixing the amount due to the printers for the English debates, by the amount asked by the printer of the debates in French. Mr. Bayon, of the Courier, had stated that he expected no gratuity from the Convention; that the work had cost him two thousand six hundred dollars, and that he asked three thousand dollars. I thought that amount reasonable.

The printers of the English debates had presented a much heavier bill, both in reference to the printing of the debates and journals and the job work. The English debates were more voluminous than the debates in French, but I consider, said Mr. Benjamin, that in allowing the accounts of the English printer, for extra work, more than compensated the difference in the expense they incurred, over and above for the printing of the debates in English.

Mr. ROSELIUS, who has been a practical printer, participated, I believe, in the same opinion.

Mr. DOWNS hoped the additional compensation would be allowed, as an act of sheer justice. The work done in English was much greater than in French, as all the proceedings of this body were almost exclusively conducted in English.

Mr. BRENT said that it should be borne in mind that when the present printers were elected, the debates and journals were two weeks behind. He thought they were fairly entitled to the additional compensation asked for.

Mr. CHINN moved to lay the amendment on the table. He desired information. If the printers were entitled to this additional sum, he had no objection. But he wished first to satisfy his mind.

The yeas and nays were called for on Mr. Chinn's motion, and

Messrs. Aubert, Benjamin, Brumfield, Burton, Chinn, Covillion, Dunn, Garcia, Garrett, Labauve, McCallop, Penn, Scott of Baton Rouge, Sellers, Stephens, Taylor

of Assumption and Winchester voted in the affirmative—17 yeas; and

Messrs. Beatty, Bourg, Brazeale, Brent, Cade, Carriere, Cénas, Chambliss, Covillion, Downs, Eustis, Guion, Humble, Hynson, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roman, Saunders, Scott of Madison, Taylor of St. Landry, Waddill, Wederstrandt and Winder voted in the negative—35 nays.

Mr. Brent moved for the adoption of the section.

The yeas and nays were called for on Mr. Brent's motion, and

Messrs. Beatty, Brazeale, Brent, Cénas, Chamblis, Covillion, Downs, Eustis, Garrett, Humble, Hynson, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Madison, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Benjamin, Bourg, Brumfield, Burton, Cade, Carriere, Conrad of Jefferson, Dunn, Garcia, Guion, Hudspeth, Legendre, Lewis, Penn, Prudhomme, Pugh, Roman, Saunders, Sellers, Stephens, Taylor of St. Landry and Winchester voted in the negative—23 nays.

Mr. Mayo then offered a resolution that the treasurer should reserve in his hands a sufficient amount to pay the printers, upon the completion of this work.

Said resolution was adopted.

Whereupon, the Convention adjourned.

Tuesday, May 13, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

The Convention took up the report of committee on revision, on the schedule, and adopted the same with amendments.

They then took up the title, legislative department. When the fifteenth article [section] was read,

Mr. Claiborne rose and said, that he considered it to be his duty to ask for the rejection of the clause which divided the city in her representation into petty districts. Such a clause was unworthy of the constitution, which ought not to contain any other than fundamental principles. If, however, the city had to be divided, as a compromise, he would ask that it be divided into its more natural divisions, municipalities, and not into petty divisions, which were at present dependent upon the names attached to streets.

The yeas and nays were called for upon Mr. Claiborne's motion—yeas 24, nays 31.

Mr. Brent moved to reject section ten, providing for the acquisition of residence.

The yeas and nays were called for—yeas, 25, nays 31.

Mr. Winder offered a resolution fixing to-morrow at twelve o'clock, for taking the final vote upon the passage of the constitution, and prescribing that if it be adopted, it shall be signed by the president, secretary, and the members of the Convention.

Mr. Porter objected to the latter part of the resolution. It was a privilege for a member to sign or not, just as he pleased.

Mr. Conrad of Orleans, said it ought to be signed by all or none.

Mr. Wadsworth observed that the matter of signing was not an evidence of approval.

The second part of the resolution was amended, so as to leave it to the members to sign or not, as they pleased.

Mr. Downs moved to add to the resolution "and shall vote upon the question without debate."

Messrs. Conrad of Orleans, and Claiborne objected. They did not believe that debate would take place, but yet they thought it indecorous to declare it should not take place. Members unquestionably had the right to assign their reasons.

Mr. Downs disclaimed the intention to prevent members from assigning the reasons for their vote. The object of the amendment was to preclude a repitition of the debates that had taken place upon the constitution in detail.

The amendment was concurred in.

Whereupon the Convention adjourned until 5 o'clock, p. m.

Tuesday Evening, May 13, 1845.

The Convention met pursuant to adjournment.

Mr. Taylor moved to amend the clause in the section relative to duelling, by inserting the following words, "with a citizen of Louisiana."

Mr. Lewis thought this would defeat, in a great measure, the object of the provision.

Mr. Taylor of Assumption, said that this amendment was necessary, in order to place citizens upon equal terms with transient persons.

The amendment was lost according to the rule—yeas 35, nays 19.

Mr. Garcia then moved that the subject be postponed for the present.

His motion prevailed.

Several other articles of the general provisions were then taken up and concurred in with amendments.

Mr. Voorhies then moved to strike out the clause prescribing that the seat of government shall not be within sixty miles of the city of New Orleans.

Mr. Kenner said if this motion prevailed, it would be equivalent to keeping the seat of government in the city.

Mr. Voorhies moved that his motion lay on the table subject to call.

The yeas and nays were called for—yeas 32, nays 28.

The Convention finally rejected section thirty-nine, authorizing suits to be instituted against the State—yeas 42, nays 19.

They then resumed the consideration of the cluase upon duelling.

Mr. Taylor of Assumption, renewed his motion to amend, by adding the words "with a citizen of the State."

The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Brent, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culberson, Derbes, Downs, DuBouchel, Garcia, Guion, Hudspeth, Humble, Kenner, Ledoux, Legendre, Marigny, Mayo, Mazureau, Porter, Prescott of Avoyeilles, Prescott of St. Landry, Prudhomme, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Winchester and Winder voted in the affirmative—45 yeas; and

Messrs. Brazeale, Burton, Chambliss, Chinn, Eustis, Garrett, Hynson, Lewis, McCallop, McRae, Peets, Preston, Pugh, Read, Roselius and Stephens voted in the negative—16 nays.

The section was them adopted as amended—yeas 38, nays 25, as follows:

Messrs. Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Mayo, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Pugh, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill Winchester and Winder voted in the affirmative—38 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, DuBouchel, Garcia, Kenner, Legendre, Marigny, Mazureau, Porter, Prudhomme, Roman, St. Amand, Soulé, Splane, Trist, Wadsworth and Wederstrandt, voted in the negative—25 nays.

Mr. Kenner moved that the section relative to the seat of government, be taken up; which motion prevailed.

Mr. Brent moved that the seat of government be permanently fixed at the town of Baton Rouge, after the year 1848.

Mr. Kenner moved to amend the amendment, by striking out Baton Rouge and inserting Donaldsonville.

The amendment was lost.

Mr. Benjamin moved to strike out the words "Baton Rouge."

His motion was lost—yeas 31, nays 32.

The question recurred on the adoption of Mr. Brent's proposition.

The yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Splane, Taylor of Assumption, Trist, Voorhies, Waddill and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garcia, Guion, Hudspeth, Kenner, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—32 nays.

Mr. VOORHIES then moved to strike out the clause excluding the city of New Orleans.

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Brent, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garcia, Garrett, Guion, Humble, Ledoux, Legendre, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Splane, Trist, Voorhies, Wadsworth and Winchester voted in the affirmative—36 yeas; and

Messrs. Beatty, Brazeale, Brumfield, Burton, Chambliss, Chinn, Dunn, Hudspeth, Hynson, Kenner, Lewis, McCallop, McRae, Peets, Prescott of Avoyelles, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt and Winder voted in the negative—27nays.

Mr. WADSWORTH gave notice that he would move for the reconsideratien to-morrow.

Mr. BEATTY asked for the reconsideration at once.

The yeas and nays were called for upon the motion to reconsider; and it was lost.

Mr. WADSWORTH then gave notice that he would move, to-morrow, for the reconsideration of the vote just taken.

Whereupon the Convention adjourned.

WEDNESDAY, May 14, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

Mr. READ, on behalf of the contingent expenses committee, presented several accounts, which were ordered to be paid; also an account of sales of the furniture used by the Convention during its sitting in the St. Louis Ball Room.

Mr. SAUNDERS presented an ordinance for the promulgation of the constitution through the Bee, Jeffersonian, Bulletin and Courier newspapers, and in the several country papers.

Said ordinance was adopted.

The Convention then took up the title impeachment, at its third reading, and adopted the several articles.

They next took up the title public education, upon its third reading.

Mr. MILES TAYLOR moved to amend the first section, so that the superintendent for public education shall be elected by the duly qualified voters, in lieu of being appointed by the governor.

The yeas and nays were called for, on said motion.

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Prescott of Avoyelles, Preston, Prudhomme, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill and Wederstrandt voted in the affirmatie—35 yeas; and

Messrs. Aubert, Benjamin, Briant, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Grymes, Guion, Labauve, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Voorhies, Winchester and Winder voted in the negative—25 nays.

The motion was lost under the rule, there not being a majority of the whole Convention.

The several articles under the foregoing title, was then adopted.

The Convention then took title VIII, upon the revision of the constitution.

Mr. MILES TAYLOR moved to amend the first article of said title, by striking out "three-fifths," and inserting "a majority of the legislature."

The yeas and nays were called for,

Messrs. Brazeale, Brent, Brumfield, Cade, Chambliss, Covillion, DuBouchel, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Taylor of Assumption, Voorhies, Waddill and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Burton, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Con-

rad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—38 nays.

The several articles were then adopted.

The Convention took up title IX, schedule, on its third reading, and adopted the same.

They then took up title X, ordinances.

Mr. WINCHESTER moved to amend the first ordinance by striking out the words "and under the present constitution."

The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Cade, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Garcia, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the affirmative—33 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, DuBouchel, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Madison, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill and Wederstrandt voted in the negative—34 nays.

The several articles of title X were then adopted.

Mr. WADSWORTH then moved to take up his motion to reconsider the article relative to the seat of government.

Mr. PENN said that he was in favor of the removal of the seat of government out of the city. He was ready to fix it at Baton Rouge at once, or leave the location to the legislature, but he could not consent to vote for so odious a clause as the one embodied in the constitution. In effect, it was not only affixing an approbrium upon the city, pronouncing an anathema upon her, but it likewise embraced a radius of sixty miles around the city. He could not vote for such an act of proscription. It not only excluded New Orleans, but it likewise excluded the section of country which he had the honor of representing upon this floor, from ever becoming the seat of government. Such an exclusion in a constitution was repugnant to his sense of justice. He should regret to see it placed there.

Mr. EUSTIS said he had a proposition to make on behalf of two or three members of the Orleans delegation. This interdict is to be found in no other constitution. It ought not to be found in this. If it be the settled conviction of a majority of this body, that the seat of government ought to be removed, be it so. The only question which presents to my mind any serious difficulty, is the period for holding the sessions of the legislature. If you place the seat of government out of the city, and fix the sessions of the legislature in January, you effectually disfranchise the city; for it will be impossible for her to be adequately represented at that season of the year. But what I would propose is this, and I speak in behalf of myself and two or three members of the city delegation only, to fix the sessions of the legislature in the month of June. If you do this, the necessity for the restriction of the city ceases. Fix at once the seat of government and establish it permanently, where you will. The people of the city of New Orleans cannot but regard the exclusion with sore discontent. They feel it as an act of great injustice, and that feeling ought to be dispelled at once for the mutual good will and understanding that ought to prevail between the city and the other sections of the State.

Mr. MILES TAYLOR said that for one he could not consent to the compromise offered at this late hour. The question of the removal of the seat of government had been for months before the Convention, and every opportunity had been presented for a settlement of that question, as it is now proposed, if such had been the desire of the city delegation. The direct proposition was even made last evening, to fix the seat of government at Baton Rouge, and what was the result? Why sir, every member of the city delegation voted against it. Not one syllable was heard then about a willingness to compromise the matter, by fixing the seat of government in the constitution. Delegates from the city had complained of what they were pleased to consider "the proscription of the city,"

Their objection, they told us, was not so much to the removal of the seat of government, but to the manner in which it was proposed to be brought about. If they were dissatisfied with the exclusion of the city and the country within sixty miles of it, it would have been crazy to have obviated that cause of discontent, by voting for the proposition to fix the seat of government at once. It depended upon themselves to have carried it, and to have expunged by their vote the "odious clause" to which they have taken so much exception. Why did they not do it? He (Mr. T.) had voted to establish it in Baton Rouge, though he preferred that the choice of the place in the country should have been left to the legislature. But he had so voted to obviate the objection of the city delegation. A large number of the country delegation, regardless of individual preferences and actuated, he believed, by the same feelings which influenced him, had voted in favor of that proposition, and had an inconsiderable portion of the city delegation united with them, the question would have been settled, and this clause, about which we have heard so much complaint, would have been struck out of the constitution. It was too late now to speak of compromises. The hour had arrived for taking the final vote upon the constitution, and if the removal of the seat of government were to be defeated now, he wished to see the names of those that were determined to effect it, distinctly recorded. For one, he was disposed to stand or fall by the section as it was. If it were so very objectionable to the city delegation, they alone were to blame. The seat of government would have been fixed at Baton Rouge had they willed it, and the exclusion would have become general with regard to the remainder of the State as well as the city. If thirty-nine delegates can be found opposed to the removal of the seat of government from the city, at this late hour, so be it! My name will not be found among the number.

Mr. Grymes contended that if this clause were maintained it would militate very much against the adoption of the constitution. It would irritate, and with just reason, the people of the city of New Orleans and the surrounding country. It was not the removal of the seat of government itself, which would provoke displeasure, but it was the manner in which it was proposed to be removed. For himself he thought it of no advantage to the city; in fact, he freely conceded that it would be better to remove it from the city, but let it be located at once. Place it at Baton Rouge, Donaldsonville, or where you will, but do not insist upon this unfortunate clause. There were several excellent provisions in the constitution, and upon the whole he would vote for it, but he was sorry to see its good features marred by such a blemish. It was not too late for the Convention to retrace their steps. Let them expunge this odious restriction from the constitution, and fix the seat of government where they will. It was of the highest importance that the constitution should be adopted. We had reached a crisis which rendered it indispensable to the public welfare and to the public quiet.

The only favor that the city of New Orleans asks at your hands in this matter of the seat of government, is to fix the sessions of the legislature at a period of the year when it will not be inconvenient for her citizens to represent her. If this be done I am ready to unite in fixing the seat of government at any place the majority of this body may desire.

Mr. Benjamin said that he desired not to be misunderstood, and therefore felt it necessary to state his dissent from a part of what had fallen from his colleague (Mr. Grymes.) He did not agree that the seat of government ought to be removed from New Orleans. This would be pernicious to the interests of the State, and particularly of the city.

When the Convention was called, nothing was said about removing the seat of government; a large vote for a Convention was given in New Orleans; this would not have been the case, if the citizens supposed such a clause would be inserted in the constitution.

Tne Convention had no right to say to the people that they should not choose their seat of government. This was a right of the people who had not delegated to the Convention the power to restrict that right.

That if this clause were now stricken out, there would be an almost unanimous vote for the constitution, which would be a great point gained, and would insure the confidence of the people.

Mr. Taylor of Assumption, said: I consider it to be proper to make a few remarks, in reply to what fell from the delegate from New Orleans, (Mr. Grymes), before the question is taken. That delegate has, with great frankness, admitted that it would be beneficial to the whole State, to remove the seat of government from the city of New Orleans. His objection is not to the removal, for he admits it ought to be removed, but the manner in which it is proposed to be effected. He says it will endanger the adoption of the constitution. Now, I will venture to predict that the city delegation, with the exception of that gentleman himself, and one or perhaps two others, will vote against the adoption of the constitution, and will exert themselves to obtain its rejection by the people. Their deep rooted aversion to it is known; and are we to be induced to abandon a measure which will promote the public good, because we are told it will endanger the adoption of the constitution, by persons who desire to defeat it? The large majority of the Orleans delegation are against the removal of the seat of government at all, and nothing less than a total abandonment of that design, would be satisfactory to them.

But we are told by a delegate from the country, (Mr. Penn) that he is in favor of establishing the seat of government at a particular place; that he would readily vote for fixing it at Baton Rouge, but that he cannot vote for proscribing the city of New Orleans, and the section of country in which he resides. If that delegate had been in his seat, it might have happened that the seat of government would have been fixed at Baton Rouge, and the necessity for this section would have been avoided. The vote was taken last evening upon the proposition to fix it there. Thirty-five votes were cast in favor of that proposition. The president did not vote, but would have voted in favor of the proposition had his vote been necessary to a decision of the question. The delegate from Lafayette was not in his seat, but his presence could have been obtained; his vote would have made thirty-six votes, and the vote of the delegate from St. Tammany (Mr. Penn), and that of his fellow delegate, would have made thirty-eight votes, and the vote of the president, thirty-nine. This would have made a majority of the whole house, and the number required under the rule. And now, when one of the delegates that voted in favor of the proposition, (Mr. Scott of East Feliciana) has been stricken by sickness, and has been compelled to withdraw from the Convention, the delegate from St. Tammany (Mr. Peen) tells us he is in favor of Baton Rouge, but against the section, because it is proscriptive!

I have as much right as any member on this floor to assert that I have no prejudices against the city of New Orleans. When a question of vital importance to her interests—one which involved her dearest rights, was before the Convention—I refer to the proposition to deprive her of equal representation in the popular branch of the legislature, I raised my voice against it; and when her own delegates fainted in the contest, and were diisposed to abandon it in dispair, I still stood by her, and yielded not one inch of ground. And now am I to be told that I am proscribing the city, and putting her to the ban, because I am of opinion that a populous city ought not to be the seat of government? I think it injurious to the public interest that it should be there; and I am persuaded that the correctness of that opinion is established by all experience.

There are many causes at work in a great commercial capital, which must inevitably disturb legislation. The attractions of pleasure and the calls of business, withdraw members of the legislature too frequently from their seats; and it happens again and again that large numbers of both representatives and senators are absent when the most important votes are taken. There are corrupting influences too, which tend to divert them from the path of duty; which are more easily brought to bear upon them when they are mingled up, and almost lost in crowds, influenced by interest and the hope of gain, than when they are at a distance from the seats of extravagant speculation and excited enterprise.

The city is as much interested in the removal of the seat of government as the country. Its population must have the same object—that of securing good legislation. And if her citizens will examine the facts, they must be convinced. The session of this body will furnish many illustrations of the correctness of this posi-

tion. I will only mention one. In proportion to their numbers, the city delegates were more frequently absent from their seats than those coming from the country. When the details of the senatorial apportionment were under consideration, a great proportion of them were absent. By dint of exertion the presence of the most of them were procured at the final vote on its adoption as a whole, and it was rejected by a small majority. It then took the house a week or ten days to modify it in such a manner as to ensure its adoption. It is hardly necessary to add that if they had attended before, this would not have taken place.

The real question to be decided is this. Shall the seat of government continue in New Orleans or shall it be permanently fixed in the country. The time has passed when this question can be avoided by getting up a contest between particular places in the country. It must be decided on the section as it is. No country member who votes against it because of its form, can shield himself from responsibility. He is not in favor of the removal of the seat of government from the city. I venture the assertion that if the section be not adopted, the seat of government cannot be removed, whilst New Orleans is not excluded from the candidacy, she can and will defeat it. It is well ascertained that a large majority of the delegates in this body are in favor of the removal of the seat of government, into the interior of the State, and yet they could not locate it, because the city delegation by throwing its weight against every specified place, can prevent its being fixed on. The members to the legislature, as well as the members of this body, have their local preferences, and the representation from the city have thrown their weight in the legislature as well as in this Covention, so as to prevent its being permanently established in the country. It is therefore certain, that unless this section, as it is, be embodied in the constitution, the permanent removal of the seat of government from the city is impossible.

The delegate from New Orleans, (Mr. Grymes,) whilst he admitted that the seat of government ought to be removed, for which acknowledgement I thank him, objects to the section, because, he says, that if adopted, we shall have a floating capital, an ambulatory seat of government, and he refers to our past experience, for proof of the fact. He says the seat of government was carried to Donaldsonville and then brought back to the city, and that such will again be the result if the section referred to be adopted. It is true, he adds, that they will not bring it to the city, but they will take it from one country village to another. I think that our past experience will justify no such conclusion. There is no analogy between the provision proposed, and the old one on the same subject. This declares that the seat of government shall not be removed after it is fixed by the legislature, without the consent of four-fifths of the members of both houses of the legislature. How was it before? Why Sir, it was in the power of a bare majority to change it when they saw fit.

The seat of government was once removed and then brought back, and we are now told that this shews it cannot be kept out of the city. And how did it happen that it was brought back? Why Sir, appropriations were not made to prepare suitable buildings for the accommodation of the servants of the people, and every thing was done indirectly to restore the seat of government to the city, by making it inconvenient or impossible for them to remain where they were. It was an open question, and the city delegation and those who preferred the city for the seat of government, absented themselves from the legislature, and then complained that there was no quorum to do the public business; that the public business could not be done in the country, and by preventing appropriations to complete the public buildings, and uttering continual complaints, they carried their point, and the legislature returned to the city. This would again be the result were it to remain an open question. This will be effectually prevented were we to adopt the section proposed; and the seat of government will be finally established, as the good of the whole State requires it to be, at a distance from our great commercial capital.

The Chair (Mr. Saunders) decided that the motion for reconsideration was not in order.

His decision was maintained.

The hour having arrived for taking the final vote upon the adoption of the constitution, Mr. VOORHIES called for the yeas and nays on that question.

The PRESIDENT (Mr. Walker) put the question "shall this constitution be adopted?"

Messrs. Joseph Walker, president, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Culbertson, Downs, Eustis, Garrett, Guion, Hudspeth, Hmble, Hynson, Kenner, Labauve, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roselius, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soule, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Winder voted in the affirmative—55 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Garcia, Legendre, Mazureau, Roman, St. Amand and Winchester voted in the negative—15 nays.

Absent members: Messrs. Grymes, King, O'Brian, Porche, Ratliff, Scott of Feliciana and Wikoff.

Mr. BENJAMIN said he voted no becausehe did not think his constituents would accept a constitution prescribing their territory and sixty miles around it as unworthy of being the seat of government. Had such a provision as that been submitted to them in the act providing that the sense of the people be taken as to the propriety of calling a convention, they would have voted against the call.

Mr. CENAS said,

Mr. President:—The position in which I find myself is peculiarly embarrassing and perplexing. With much that is admirable in the new constitution, and which meets with my most hearty concurrence, I am, nevertheless, constrained to withhold my assent to its final adoption. The article relative to the seat of government involves a principle so utterly at war with the spirit of our institutions, and so antidemocratic in its operation and tendencies, that, as a representative upon this floor of the constituency principally brought under its proscriptive ban, I cannot, conscientiously, give my sanction to an instrument whose whole character is, in my humble opinion, marred by this obnoxious and hideous feature. For this reason, therefore, Mr. President, I am compelled to request that my vote be recorded in the negative.

Mr. CHINN said,

Mr. President:—It will be recollected by this Convention, that when it first met I entertained opinions as to the powers of the Convention, different from those entertained by a large majority. I believed then and I still believe, that the Convention had no power to go beyond the specifications of the legislature. Entertaining that opinion, it might have been reasonably expected that on this occasion my answer would have been no. But, as I desire to afford the people an opportunity of passing upon our labors, I vote yes; reserving to myself the right at another time and place, of giving my final opinion on this important subject.

Mr. C. M. CONRAD said that he had hesitated for some time how he should vote upon the final question of the adoption of the constitution; but when the clause was adopted providing that the result of the labors of this body should be submitted to others than those that had called it into existence, his doubts vanished. He was not at Jackson when the direct question was put whether the Convention could go beyond the specifications in the act calling it into existence, and upon which specifications the sense of the people had alone been taken, and had, therefore, been unable to give expression to his opinion upon that point. He thought the Convention had not the power to go beyond the specifications, and this opinion was participated in by a large number of his constituents. Had they have dreamed that plenary powers would have been assumed, they would never have voted for the calling of the Convention. Be that, however, as it may, the question is decided; the evil is done, and the only resource left, is that the people have the opportunity of confirming this assumption of power, or of refusing to accept its fruits. If the decision were left to those that voted for the calling of the Convention, the violation of the power would be less obnoxious; the electors would

decide the question; but as it is, one violation has been followed by another.

I cannot yield my assent to an instrument which has been brought forth under such circumstances. I would consider myself derelict in duty were I to do so. Moreover, I consider the clause prescribing the city of New Orleans a detestable proscription, and in its results it will be attended with pernicious consequences to the State. The absurd predjudice which dictated it, once before perverted the better judgment of the legislature and induced them to make the experiment. The seat of government was removed; but what was the result? The very persons that voted to take it away, voted to bring it back. The lessons of experience were not lost upon them, however unavailing those lessons may have been with a majority in this body. The city is the only place where the legislature of the State will be exposed to the broad glare of light. Where its acts will be laid bare to the rigid scrutiny of an active and vigilant press; and where concealment and obscurity cannot serve as shields from responsibility. At any rate, it cannot be expected that I should countenance such a stigma upon the constituency that I have the honor of representing that the meeting of the legislature in the city, if not prohibited, would contaminate the purity of that body.

Mr. Claiborne said: As I am about to cast my humble vote against this constitution, I desire, Mr. President, in the delicate and painful position in which I find myself placed, in regard to so important a matter, briefly to explain my motives and sentiments. I am animated, sir, by no captious opposition to the will of the majority; against that will, far greater abilities than mine, have struggled in vain upon this floor. And if it be subsequently ratified by the people, I shall of course yield to it with the submission and good grace, I hope, that are due by every citizen to the doctrine of our institutions, that the majority must govern. Not, sir, as has been truly said, because the majority is always right, or that its rule be always gentle, but because it being necessary that the one or the other should govern; it would be far more unjust to yield to the will of the minority than to that of the majority. Still, sir, I contend that in such an important and delicate matter as the framing of the social contract under which all are to live and to be governed, the feelings, the convictions, and even the prejudices of any respectable minority, should be treated with some regard, and some spirit of mutual concession. For, sir, where is the best guarantee of that stability which is so essential an element in the fundamental law of the land, of that respect which it should command, and of the prosperity which a people should enjoy under it? Is it not, sir, in the attachment to it of the great mass of that people, in the willing acquiescence of the remainder, and in the general contentment and security which it should afford to all sections of country, as well as to all essential interests in society? In these permanent requisites of a constitution, I fear, sir, that this Convention has failed, and that it will leave deep traces of discontent behind. When Solon made a system of laws for his country, he admitted that he had not made the best possible laws, but those that were the best suited to the Athenian people; but I doubt, sir, whether we can claim for our work even the latter of these qualities, of which the ancient law-giver had boasted. That our constitution is a masterpiece of wisdom, none, I presume, will assert; nor is it, in my humble opinion, the best adapted to the people of Louisiana. We have gone far beyond the objects of that people, when they called for a Convention; they called for reform, and not, as I believe, for experiments, amounting almost to a violation. We have unnecessarily attacked too many local feelings and interests; shocked too many customs and habits.

In our formation of the judiciary department, I see a change in the organization of that power, leaving scarcely a remnant behind. I see many men who are doomed to be superseded in office, and room to be made for others; but still I should be happy if I could as clearly perceive that the great object of reform will be effectually attained. I am convinced, on the other hand, that in regard to the great city, which I represent in part, the system adopted will be far from answering its wants, its habits, and its various business and interests; whilst I perceive, more and more, that it is decidedly obnoxious to a very large and respectable portion of the coun-

try. It would seem to me that we might equally have attained the end proposed, and respected the habits and desires of so large a portion of the population, by confining the parish judges to their judicial functions, and stripping them of those various other functions and attributes, against which the outcry of complaint had justly arisen.

In the legislative department I humbly concieve that we have made the house of representatives too numerous, according to our mode of conducting legislative proceeding, for order and promptitude in business, as well as for economy. Whilst the senate is scarcely more than an epitome of the other house, with no essential difference in the mode of election or qualifications for office, and not answering sufficiently its object in the theory of our government, as a check upon the precipitate action, or the passions that may temporarily prevail in the other house. There should have been in the senate, I conceive, (and I should have been perfectly satisfied with it in that branch of the government alone,) some acknowledged protection of the principle of property—the great stimulus to industry, without which civilized society could not exist, and mankind would fall into barbarism; but, sir, the word property, if not yet the principle, appears to have been repudiated in this constitution, for if it be found in it at all, it is, I believe, by accident.

In avowing these sentiments, I repel and contume the charge that has so often been directed against them, of restriction and exclusion, of invidious distinctions between the rich and the poor. The acquisition of property is often to the competition of all, and the honest and industrious poor who labor to obtain it, are as much interested in its protection, as those who already enjoy it. I am, sir, for a constitution that would secure to itself the attachment of the rich as well as that of the poor, by giving to each his proper share of protection. I am for a constitution under which, whilst the poor man would be contentedly at work below, or resting after his toil, the rich man, who would have leisure to do so, would be on the watch tower above to warn him of the dangers that might threaten their common interests, their common liberties, and their common country.

I will not allow myself to comment upon the unparalleled provision that has made a constitutional proscription of nearly one half of the State, in the choice of the seat of government to be made by the legislature; that section speaks for itself to every mind that is not obscured by prejudice or passion. These, sir, and other defects and oddities, that have been pointed out in debate, and which will be now left to public discussion, form my objections to this instrument. It contains, I know, many valuable provisions which I should regret to loose, but most of them may be equally attained by the proper action of the legislature; and others will be but delayed even if this constitution should be rejected by the people. As I cannot here separate the good that is in it from what I consider to be the overweighing rubbish, I feel myself painfully compelled to vote against the whole. If it be a crime, I have, therefore, avowed myself to be strongly conservative in my principles, and am prepared to suffer the penalty; but I have at least the consolation and the consciousness in my own heart of meaning and understanding by such principles, those that are the best calculated to secure and to preserve for ourselves and our posterity, the blessings of good government and of rational liberty. As the opposite doctrines of radicalism, as they are called, are marching with rapid strides over the land, God grant, if they should finally prevail, that *we* may be wrong, and that our adversaries may be right in the attainment of the great objects which both profess to have in view—the happiness of the people and the prosperity of our institutions.

Mr. Culbertson said that the clause in relation to the city of New Orleans, he would avow, would have deterred him from voting in favor of the constitution, if the vote in this body was to by final. But, inasmuch as the question of its final adoption is submitted to the people., I shall vote aye.

Mr. Downs said that nothing had astonished him more than the reasons that he had had assigned for voting against the constitution. The constitution certainly contained some clauses that did not meet his approbation; some of them operated to the prejudice of the section of the State which he represented, but the idea because they are there, and that the constitution is not perfect, that therefore it ought to be reject-

ed, is one of the most novel he had ever heard. It was not to be expected that every provision would meet unanimous approbation. The only thing that has governed my vote, said Mr. Downs, is the *tout ensemble* of the instrument that meets my approbation, and that is as much as any individual member ought to expect, unless he made the constitution to suit himself, and embodied in it all his own notions.

As for the clause in relation to the seat of government, which it is said proscribes the city of New Orleans, I have invariably on every occasion when it has come up, voted against it. But there is, after all, nothing of that odious character in it which has been assumed. If the seat of government were fixed in the constitution out of the city of New Orleans, the city would in the same manner be proscribed. It is not intended as an odious exclusion of the city, but is conceived to be the only means of placing the legislature of the State where it will be conducted more calmly and more quietly. I do not think the clause necessary to effect the object, and would therefore have dispensed with it. But, at the same time, I cannot understand why it should interfere with the adoption of the constitution, whose provisions otherwise are admitted to be good in the main.

If it be expected, by this singular mode of attack, that the people are to be prejudiced beforehand with the constitution, and in that way they will be induced to reject it, such an expectation is doomed, I predict, to a most woful disappointment. This early beating to arms, instead of bringing the people to the curb of the opposition, will decide them to assume the defence of the constitution. So far, then, from regretting this premature indication of hostility, I am very glad the demonstration has been made, in order that the people may be prepared to meet it.

Mr. Labauve said that he had endeavored fully to carry out the will of his constituents, and to represent their wishes. He had freely blamed what he thought injudicious in the constitution; but after all, he was aware that, as a member of this body, he was finally bound to submit to the will of the majority. This constitution had been the result of the joint labors and experience of all, and whatever may be its imperfections, he conceived it his duty to submit it to that will. He would vote in the affirmative.

Mr. Lewis said: I vote in the affirmative because, upon the whole, I consider the constitution a good one, and notwithstanding its defects, defects which I anticipated, I think it will be acceptable to the mass of my constituents.

Mr. Marigny voted aye for this reason alone, that the approval or rejection of the constitution was with the people.

Mr. Kenner: Mr. President, I arise, sir, to assign the reasons for my vote on the final adoption of this constitution, with the less embarrassment, as the example has been set me by several whose names precede mine on the roll. Had, sir, a stranger entered this hall this morning, for the first time to witness our proceedings, he might have been easily led to believe that the only object of the calling of this Convention had been to locate the seat of government, or at least, that that was about all we had succeeded in accomplishing. For, sir, the sum and substance of every objection to this constitution, of every member who has as yet addressed the house, has been that the seat of government cannot, after the year 1848, be located within a circumference of sixty miles of the city of New Orleans—and that, consequently, they are constrained to vote against the constitution, as they think that thus great injustice has been done their constituents living within this "pestiferous circle," as it has been called.

Now, sir, I ask the members to pause and reflect, before casting their votes. I I ask, sir, was our mission here alone to locate the seat of government, and have we, sir, accomplished nothing else, after a long and arduous session of four months? Let us recur, for a few moments, to what we have done since assembling. What then have we done?

First, we have removed an odious restriction on the right of suffrage—the property qualification—the more odious that it prevented many an honest and worthy citizen to cast his vote, when those whose consciences were less tender, marched boldly to the polls, frequently under the mere semblance of having paid a tax, and thus fulfilling the mere letter of the law.

Sir, this restriction we have removed, and have established a principle more in accordance with human rights and the spirit of the age, that of universal suffrage.

Again, sir, we have equalized and extended representation, more particularly in the senate. We have given New Orleans something nearer her just right in the upper branch of the legislature.

Again, sir, we have by establishing the system of biennial legislation and confining the term to sixty days, removed one of the greatest curses ever inflicted on our country. I mean, sir, exess of legislation; the enacting laws one year to be repealed the next; to say nothing of this, the great saving to the public treasury.

Again, sir, we have diminished the patronage of the executive, by placing in the hands of the people themselves the appointment of most of their parochial officers.

Again, sir, we have effected great changes, and I hope great reforms in the judiciary—perhaps the most important of all the departments in our State government—reforms which we have been told, by the many distinguished occupants of the bench and members of the legal profession who hold seats on this floor, were much needed, and for which the people have been long crying aloud.

Again, sir, we have forbidden the legislature to pledge the faith of the State to enable private corporations to borrow money for the purposes of banking, internal improvements, or other wild and visionary schemes, or to borrow money for the State itself except in case of war or domestic insurrection. Now, sir, are these great changes *nothing?* Are they, sir, to be placed in the scale and weighed as a feather against the question of the location of the seat of government? I sincerely trust not.

Again, sir, we have ordered that the legislature shall establish a system of *free public schools*, to be supported by the proceeds of the public lands or by taxation, where the child of every man in the State shall be taught the rudiments of an education. And, sir, let me here remark, that should the legislature carry out our intention, as I hope to God they may, we shall have conferred a greater benefit on the rising generation of this "proscribed" sixty miles, than if every legislature of every State in the Union should hold not only yearly but monthly sessions, within the walls of this city. One word, sir, with regard to the words "proscribed" and "proscription." Gentlemen tell us, that because we have determined that the seat of government shall not be located within sixty miles of New Orleans, that it is an "odious proscription" of this city and their constituents. Sir, is this a fact? Had we have located the seat of government in New Orleans, would not that by a parity of reasoning, have been a virtual proscription of the rest of the State? Had we have located it in Donaldsonville, as I last night proposed, would the good sense of this Convention have sustained the member from Catahoula or Ouachita, had he have risen in his seat and objected to it, that it was an odious proscription of his parish? Sir, he would have been laughed at. The seat of government must be located some where, and it is, I had almost said, ridiculous, that the location of it in any one spot is an "odious proscription" of the rest of the State.

Away then, sir, with these pitiful local feelings and prejudices. Away, then, with this dog-in-the-manger feeling that because New Orleans cannot have the seat of government, no one else shall; and let us vote for this constitution on the higher and nobler ground of its extending and securing greater civil and political rights to the great body of our citizens.

I vote aye, because we have established universal suffrage.

I vote aye, because we have extended and equalized representation.

I vote aye, because we have set a limit to legislation, and diminished executive patronage.

I vote aye, because we have reformed the judiciary.

I vote aye, because we have ordered the legislature to establish a glorious system of free public schools.

I vote aye, because we have removed the seat of government from the city of New Orleans.

Mr. Porter said, although I am not in favor of all the provisions in this constitution, yet I will vote for it, because I believe it incomparably better than the old one:

First, because the governor is elected without the intervention of the legislature;

and secondly, because the right of suffrage is extended, and no property qualification required in the electors or elected; thirdly, because some of the appointing power is taken from the governor; fourthly, because the people are to elect all their most important parish officers; fifthly, because the tenure of judical office is limited; sixthly, because an *ad valorem* system of taxation is established; seventhly, because the legislature is limited to biennial sessions, and restricted to sixty days; eighthly, because the legislature is prohibited from pledging the faith of the State, or granting banking privileges; and ninthly, because a system of common schools has been adopted.

Mr. PRESTON thought the constitution did not yet attain the popular wishes: it was not yet sufficiently radical, to make use of the common expression for reform. But, he voted for it under the firm hope, that it would be the prelude to a further extension of the popular franchise.

Mr. ROMAN assigned the following as his reasons:

1st. I vote against the adoption of this constitution, because the Convention that framed it, would never have been convened if the majority of the people had foreseen that the constitution of 1812 would have been entirely abrogated to substitute in its place, a constitution, in which conservative principles are almost all trodden under foot.

2d. Because in extending the right of suffrage, the majority in the Convention have not sufficiently penetrated the necessity of confiding that right to those only that are identified with the State, and because the functionaries who may be called on to preside over elections, will have no guide to enable them to determine who have, or who have not, the right of suffrage.

3d. Because the composition of the senate is such, that it cannot serve as a check upon the popular branch of the legislature, and because the latter body being too numerous, it will be too costly and unwieldy in conducting the public business.

4th. Because the casual and uncertain tenure of office for the judges of the supreme court and district courts, will unfortunately have the effect of placing those responsible offices in a state of dependence upon the political parties of the day; and further, that the election by the people of justices of the peace, clerks of courts and sheriffs will make the impartial administration of justice still more difficult.

For these reasons, and because a portion of this constitution is put into operation before its submission to the people, I vote in the negative.

Mr. READ voted aye because he believed it was the best constitutton in the world.

Mr. ROSELIUS said he had serious objections to raise to the constitution, and if the final vote had depended upon this body, his name would have been found in the negative. He must say too that serious doubts had arisen in his mind in relation to that clause in the ordinance conferring the right of suffrage upon the question of the adoption of the new constitution, to persons not recognized as voters under the existing constitution. He did not mean doubts as to the power of the Convention to pass this cluase, for he had specially denied that power in the Convention, and did not believe that the commissioners of elections conscientiously could carry it into effect; but doubts as to the expediency of placing it there in view of the difficulties to which it might give rise. He trusted the officers who were sworn to support the present constitution until it was superseded, would not so far forget the obligations of an oath, as to pay to it the slightest attention. He considered it an usurpation of power, a perfect nullity, and in that view only (as the question is referred to our constituents for decision,) I vote yes.

Mr. SELLERS voted aye because he thought the new constitution an improvement upon the old. There were some objectionable features in his mind, but among these was not the removal of the seat of government.

I vote in favor of this constitution because it effects many of the changes demanded by the constittuency which has sent us to this Convention, and above all because it places nearer the people, the means of providing hereafter for such improvements in the social compact as their experience may point out and their wants render necessary.

Mr. SPLANE: I vote yes, although there are some clauses in the constitution which

do not meet my concurrence. At the same time, I cannot refrain from expressing my surprise that some of the Orleans delegates should vote against it upon so feeble a pretext as the removal of the seat of government.

Resolutions were then introduced relative to the per diem to be allowed to the secretary, minute clerk, reporters, &c., for bringing up the arrear work of the Convention.

Mr. KENNER then submitted the folowing resolution:

Resolved, that the Convention do hereby express their acknowedgements to the Hon. JOSEPH WALKER, President of the Convention, for the impartial, faithful and able manner with which he has presided over the deliberations of this body, during its protracted session.

Whereupon, Mr. WALKER addressed the Convention as follows:

Gentlemen of the Convention:

The resolution you have just passed, so complimentary to my conduct as presiding officer of this assembly, after a protracted session of more than four months duration, is a flattering proof of your favorable opinion, which I shall ever remember and appreciate as one of the most pleasing events of my life, and in return for which I have nothing to offer you but my heartfelt gratitude and most profound acknowledgements. That I may have erred in the discharge of the complex duties of my station, I shall not pretend to deny. But I beg to assure you gentlemen, that whatever errors I may have committed have been unintentional.

To have been honored by my constituents with a seat in this assembly, was a mark of distinction sufficient to gratify my highest aspirations; but to be selected by this assembly, composed of gentlemen of so much intelligence and respectability, to preside over their deliberations, was much more than any merits I possess entitled me to expect.

Taking into view the many difficult and important questions which the Convention has been called upon to decide, the general course of our proceedings has been characterized by a spirit of moderation and forbearance called for by the dignity and importance of the occasion.

The deep interest which members from different portions of the State have felt to secure to the constituency by which they were severally elected, a just proportion of power in the legislative department of the State, has occasionally given rise to debate that has characterized a portion of our proceedings upon that subject, with a feeling which, under the circumstances, it was not unreasonable to expect, but which could not have been desired. I cherish a hope, however, that by the mutual concession and compromise by which this difficult subject has been adjusted, a result has been produced to which the people for whom we have acted will yield their assent and approbation.

If in the course of animated discussion and momentary excitement, expressions have escaped members calculated to irritate, I am persuaded that a feeling of perfect harmony has since been restored, and that we shall now separate with mutual feelings of kindness and good will towards each other.

We have been long and arduously engaged in the responsible duties assigned to us by our constituents, of amending and changing the organic law of the State, and the constitution which has been framed is about to be submitted to the people for their ratification or rejection.

That it will meet the entire approbation of our constituency is not to be expected. I think, however, that we may indulge a reasonable hope that it will be received by the people as a great improvement upon the constitution of 1812, and as the best that the discordant opinions of members has enabled us to make.

We may be permitted to say that, though we have not done all, we have done much; we have provided for the election of the executive, without the intervention of the legislature, except upon extraordinary occasions. We have extended the right of suffrage, equalized represention in both houses of the general assembly, remoddled the judiciary system of the State, fixed a limit to the tenure of office of the judges, provided that the absurdity in a republic of offices for life shall no longer be exhibited in this State, prohibited the incorporation of banks and the creation of State debts, except in extraordinary contingencies and to a limited extent, and have, by salutary provisions, laid a permanent foundation for a system of free schools.

Keeping in view, therefore, gentlemen, these improvements, let us, I pray you, return to our constituents resolved to cast oil upon the troublad waters, as far as in our power lies. He who shall contribute most to so desirable an end will deserve well of his country, and will most assuredly receive that appellation—the highest reward a public servant can receive.

We are now, gentlemen, about to separate, many of us, in all probability, never to meet again; may you return safely into the bosom of your families and friends—may health and happiness attend you through life, and may you long live to see our beloved Louisiana prosperous at home and respected by her sister States.

Mr. CADE offered the following resolution, which was adopted unanimously:

"*Resolved*, That the thanks of the Convention be tendered to HORATIO DAVIS, Esq., secretary of the Convention, for the assiduity and ability with which he has discharged the difficult and important duties of secretary."

Mr. SELLERS offered the following resolution:

"*Resolved*, That the thanks of the Convention be tendered to the clergy of the city of New Orleans, for opening the proceedings daily with prayer.

Whereupon the Convention adjourned.

THURSDAY, May 15, 1845.

The Convention met pursuant to adjournment.

The Hon. Mr. STEPHENS opened the proceedings with prayer.

Mr. MILES TAYLOR offered the following resolutions:

Resolved, That when this Convention adjourns, it adjourn to meet to-morrow, at 12 o'clock, m.

Be it further resolved, That the President of the Convention be authorized to adjourn this body to-morrow, the 16th instant, *sine die*.

The foregoing resolutions were adopted.

Mr. SOULE then offered a resolution for the pay of the reporters, to enable them to bring up the arrear debates, which was adopted.

Mr. CENAS offered the following resolution:

Resolved, That the thanks of the Convention be and are hereby tendered to WILLIAM DE BUYS, Esq, state treasurer, for having kept the accounts of the Convention, and paying the warrants of the members and officers.

Mr. CENAS explained that this was no portion of Mr. De Buys' duty, and that he had kindly undertaken it for the benefit of the Convention.

The resolution was unanimously adopted.

Whereupon the Convention adjourned.

FRIDAY, May 16, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

Resolutions were offered and adopted, allowing extra compensation to the reporters, clerks, and translators

Mr. LEWIS moved that the delegates be called in the order of the parishes, to sign the constitution. It was finally decided they should be called in the order of senatorial districts.

The committee of enrollment reported that the constitution was not yet ready for signature.

Whereupon, the Convention adjourned until 5 o'clock, p. m.

EVENING SESSION,
Friday, May 16th, 1845.

The Convention met pursuant to adjournment.

Mr. SOULE, on behalf of the committee on enrollment, reported that the constitution was ready to be submitted to the Convention.

On motion of Mr. LEWIS, the secretary called the names of the members by senatorial districts. The following gentlemen affixed their names to the constitution, to wit:

Mr. Joseph Walker, President, of the Convention, and senatorial delegate from the county of Rapides.

Isaac T. Preston,	Robert C. Hynson,
F. B. Conrad,	Thos. B. Scott,
Felix Garcia,	G. Mayo,
Vr. Du Bouchel,	Pierre Covillion,
T. M. Wadsworth,	W. B. Prescott,
J. P. Benjamin,	Phanor Prudhomme,
H. B. Cénas,	Thos. C. Porter,
C. M. Conrad,	Geo. W. Peets,
John Culbertson,	Wm. D. Stephens,
George Eustis,	Isaiah Garrett,

Bernard Marigny,
Christian Roselius,
P. Soulé,
James McCallop,
Zénon Labauve,
Wm. Bernard Scott,
Amaza Read,
A. Waddill,
A. R. Splane,
P. Briant,
J. Bte Derbes,
Thos. H. Lewis, of the senatorial district of Opelousas;
Green Hudspeth,
Jno. B. Wederstrandt,
W. Prescott,
Stephens,
W. Wikoff,
T. Taylor,
J. Fenwick Brent,
S. W. Downs, of the senatorial district of Ouachita.
Jacob Humble,
Pierre Porche,
Zénon Ledoux, Jr.,
Wathal Burton,
A. H. McRae,
A. M. Dunn, of East Feliciana;
R. Cade, of Lafayette;
C. Voorhies, of Attakapas;
Thos. W. Chinn, of West Baton Rouge;
L. Saunders, of East Feliciana;
Miles Taylor, of Assumption.

Mr. MARIGNY said in signing the constitution, it was the second time he had performed the same ceremony. May God ordain it should be the last.

Mr. GARCIA said he had voted against the constitution, because there were several articles in it which he could not sanction. He was persuaded, moreover, that a majority of his constituents were opposed to it, but nevertheless, he considered his signature as nothing more than an authentication of the document.

Mr. BOUDOUSQUIE said, that as it might hereafter appear inconsistent were he to sign a constitution against which he had voted. He would decline signing it, and he would avail himself of the occasion to declare, that he had voted against it, and now refused to sign it, because it contained certain dispositions the objects and the results of which he never could approve. The majority differed with him, and he trusted it would secure the happiness of the State. He however owed it to himself, and to the position he held, to declare that he would not sign it.

Mr. DERBES said that he had voted against the constitution, but yet he would sign it, because he presumed his signature could not be understood as conflicting with his vote, and with his well known and expressed opinions. If the vote were to be taken *de novo*, he would vote again against the constitution, because it did not meet his expectations.

A resolution was then adopted, allowing absent members until January next, to sign the constitution.

The Convention then made provision to pay for the enrollment of the constitution, and for some other incidental expenses.

Mr. GARCIA presented the following resolution, which was adopted.

Resolved, That the thanks of the Convention be and they are hereby tendered to Mr. James Foulhouse, reporter of the debates in French, and to Mr. Robert J. Ker, reporter of the debates in English, for the care and exactitude with which they have performed the difficult and delicate duties imposed on them.

Whereupon, the honorable JOSEPH WALKER announced that the Convention had adjourned *sine die*.

ROBERT J. KER,
Official Reporer to the Convention.

CONSTITUTION

OF THE

STATE OF LOUISIANA.

ADOPTED IN CONVENTION, MAY 14, 1845.

PREAMBLE.

We the people of the State of Louisiana do ordain, and establish this Constitution.

TITLE I.

DISTRIBUTION OF POWERS.

ART. 1. The powers of the Government of the State of Louisiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one; those which are executive to another and those which are judicial to another.

ART. 2. No one of these departments nor any person holding office in one of them shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The Legislative power of the State shall be vested in two distinct branches, the one to be styled the House of Representatives, the other the Senate, and both "the General Assembly of the State of Louisiana."

ART. 4. The members of the House of Representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November, every two years; and the election shall be completed in one day. The General Assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed by law, and their sessions shall be held at the seat of Government.

ART. 6. No person shall be a Representative, who, at the time of his election is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceeding the election, and the last year thereof, in the parish for which he may be chosen.

ART. 7. Elections for Representatives for the several parishes or Representative districts shall be held at the several election precincts established by law. The Legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

ART. 8 Representation in the House of Representatives, shall be equal and uniform, and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one Representative: No new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to are presentative, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first enumeration to be made by the State authorities under this Constitution shall be made in the year 1847, the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law for the purpose of ascertaining the total population and the number of qualified electors in each parish and election district.

At the first regular session of the Legislature after the making of each enumeration, the Legislature shall apportion the representation amongst the several parishes and election districts on the basis of qualified electors as aforesaid. A representative number shall be fixed, and each parish and election district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional Representative for any fraction exceeding one half the representative number. The number of Representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi shall be divided

into nine representative districts as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district to extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district to comprise the residue of the Second Municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of St. Louis street, until it reaches the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district to extend from the last mentioned limits to the middle of St. Phillip street, thence down said street until its intersection with the bayou St. John, thence along the middle of said bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district to be composed of the residue of the First Municipality.

7th. Seventh district from the middle of Esplanade street to the middle of Champs Elysées street.

8th. Eighth district from the middle of Champs Elysées street to the middle of Enghein street and Lafayette Avenue.

9th. Ninth district from the middle of Enghein street and Lafayette Avenue to the lower limits he parish.

ART. 9. The House of Representatives shall choose its speaker and other officers.

ART. 10. In all elections by the people every free white male who has been two years a citizen of the United States who has attained the age of twenty-one years, and resided in the State two consecutive years next preceeding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting: *Provided*, that no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

ART. 11. Absence from the State for more than ninety consecutive days, shall interrupt the acquisition of the residence required in the preceding section, unless the person absenting himself shall be a house-keeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrying on business shall be actually occupied during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

ART. 12. No soldier, seaman or marine in the army or navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

ART. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and in cities and towns divided into election precincts, in the election precinct in which he resides.

ART. 14. The members of the Senate shall be chosen for the term of four years. The Senate when assembled, shall have the power to choose its officers every two years.

ART. 15. The Legislature in every year in which they shall apportion representation in the house of representatives shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the Legislature; but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if in the apportionment to be made, a parish or district fall short of or exceed the ratio, one-fifth, then a district may be formed having not more than two senators, but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the (eighth) article, the Legislature shall not pass any law until an apportionment of representation in both Houses of the General Assembly be made.

ART. 17. At the first session of the General Assembly, after this Constitution takes effect the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year; so that one half shall be chosen every two years, and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and lots shall be drawn between them.

ART. 18 No person shall be a senator who at the time of his election, has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceeding his election, and the last year thereof in the district in which he may be chosen.

ART. 19. The first election for senators shall be general throughout the Sate, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

ART. 20. Not less than a majority of the members of each house of the General Assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members.

ART. 21. Each house of the General Assembly shall judge of the qualification, election and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 22. Each house of the General Assembly may determine the rules of its proceedings,

punish a member for disorderly behavior, and with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

ART. 23. Each house of the General Assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 24. Each house may punish by imprisonment any person not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings.—Such imprisonment shall not exceed ten days for any one offence.

ART. 25. Neither house, during the session of the General Assembly, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 26. The members of the General Assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the House of Representatives by whom such alteration shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days, shall be null and void. This provision shall not apply to the first Legislature which is to convene after the adoption of this Constitution

ART. 27. The members of the General Assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and going to or returning from the same, and for any speech or debate in either House, they shall not be questioned in any other place.

ART. 28. No Senator or Representative shall during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during the time such Senator or Representative was in office, except to such offices or appointments as may be filled by the elections of the people.

ART. 29. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society or sect, shall be eligible to the General Assembly.

ART. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the General Assembly, or to any office of profit or trust under the State Government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

ART. 31. No bill shall have the force of a law until on three several days, it be read over in each House of the General Assembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the House where the bill shall be pending, may deem it expedient to dispense with this rule.

ART. 32. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills; provided they shall not introduce any new matter under color of an amendment, which does not relate to raising revenue.

ART. 33. The General Assembly shall regulate by law, by whom, and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ART. 34. A majority of all the members elected to the Senate, shall be required for the confirmation or rejection of officers to be appointed by the Governor, with the advice and consent of the Senate; and the Senate in deciding thereon, shall vote by yeas and nays, and the names of the Senators voting for and against the appointments respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

ART. 35 Returns of all elections for members of the General Assembly shall be made to the Secretary of State.

ART. 36. A Treasurer of the State shall be elected biennially, by joint ballot of the two Houses of the General Assembly. The Governor shall have power to fill any vacancy that may happen in that office during the recess of the Legislature.

ART. 37. In the year in which a regular election of a Senator of the United States is to take place, the members of the General Assembly shall meet in the Hall of the House of Representatives, on the Monday following the meeting of the Legislature, and proceed to the said election.

TITLE III.

EXECUTIVE DEPARTMENT.

ART. 38. The Supreme Executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Louisiana. He shall hold his office during the term of four years, and together with the Lieutenant Governor chosen for the same term, be elected as follows:—The qualified electors for Representatives shall vote for a Governor and Lieutenant Governor, at the time and place of voting for Representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer to the Secretary of State, who shall deliver them to the Speaker of the House of Representatives, on the second day of the session of the General Assembly, then next to be holden. The members of the General Assembly shall meet in the House of Representatives, to examine and count the votes. The person having the greatest number of votes for Governor, shall be declared duly elected, but if two or more persons shall be equal, and highest in the number of votes polled for Governor, one of them shall immediately be chosen Governor, by joint vote of the members of the General Assembly. The person having the greatest number of votes for Lieutenant Governor shall be Lieutenant Governor; but if two or more persons shall be equal and highest in the number of votes polled for Lieutenant Governor, one of them shall be immediately chosen Lieutenant Governor by joint vote of the members of the General Assembly.

ART. 39. No person shall be eligible to the office of Governor or Lieutenant Governor, who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within the State for the same space of time next preceding his election.

ART. 40. The Governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and shall have taken the oath or affirmation prescribed by this Constitution.

ART. 41. The Governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 42. No member of Congress or person holding any office under the United States, or Minister of any religious society, shall be eligible to the office of Governor or Lieutenant Governor.

ART. 43. In case of the impeachment of the Governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor for the residue of the term, or until the Governor, absent or impeached, shall return or be acquitted. The Legislature may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the Governor and Lieutenant Governor, declaring what officer shall act as Governor; and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

ART. 44. The Lieutenant Governor, or other officer discharging the duties of Governor, shall, during his administration, receive the same compensation to which the Governor would have been entitled, had he continued in office.

ART. 45. The Lieutenant Governor shall, by virtue of his office, be President of the Senate, but shall have only a casting vote therein. Whenever he shall administer the Government, or shall be unable to attend as President of the Senate, the Senators shall elect one of their own members as President of the Senate for the time being.

ART. 46. While he acts as President of the Senate, the Lieutenant Governor shall receive for his services the same compensation which shall for the same period be allowed to the Speaker of the House of Representatives, and no more.

ART. 47. The Governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the Senate, have power to grant pardons and remit fines and forfeitures, after conviction. In cases of treason he may grant reprieves, until the end of the next session of the General Assembly, in which the power of pardoning shall be vested.

ART. 48. The Governor shall at stated times receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

ART. 49. He shall be Commander in Chief of the Army and Navy of this State and of the Militia thereof, except when they shall be called into the service of the United States.

ART. 50. He shall nominate and by and with the advice and consent of the Senate, appoint all officers whose offices are establshed by this Constitution, and whose appointment is not therein otherwise provided for: Provided, however, that the Legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 51. The Governor shall have power to fill vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this Constitution; but no person who has been nominated for office, and rejected by the Senate, shall be appointed to the same office during the recess of the Senate.

ART. 52. He may require information in writing from the officers in the Executive Department, upon any subject relating to the duties of their respective offices.

ART. 53. He shall, from time to time, give to the General Assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 54. He may on extraordinary occasions convene the General Assembly at the seat of Government, or at a different place if that should have become dangerous from an enemy or from epidemic; and in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 55. He shall take care that the laws be faithfully executed.

ART. 56. Every bill which shall have passed both Houses shall be presented to the Governor; if he approve he shall sign it, if not, he shall return it with his objections to the House in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if after such reconsideration two thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that House, it shall be a law; but in such cases the vote of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

ART. 57. Every order, resolution or vote, to which the concurrence of both Houses may be necessary, except on a question of adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected to each House of the General Assembly.

ART. 58. There shall be a Secretary of State who shall hold his office during the time for which the Governor shall have been elected. The records of the State shall be kept and preser-

ved in the office of the Secretary; he shall keep a fair register of the official acts and proceedings of the Governor, and when necessary shall attest them. He shall when required, lay the said register, and all papers, minutes and vouchers relative to his office, before either House of the General Assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 59. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the Governor.

ART. 60. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

ART. 61. The Militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the Legislature.

TITLE IV.

JUDICIARY DEPARTMENT.

ART. 62. The judicial power shall be vested in a supreme court, in district courts, and in justices of the peace.

ART. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases when the matter in dispute shall exceed three hundred dollars, and to all cases in which the constitutionality or legality of any tax, roll or impost of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeiture, and penalties imposed by municipal corporations, and in criminal cases on questions of law alone, whenever the punishment of death or hard labor may be inflicted, or when a fine exceeding three hundred dollars is actually imposed.

ART. 64. The supreme court shall be composed of one chief justice, and of three associate justices, a majority of whom shall constitute a quorum: The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hun dred dollars annually. The court shall appoint its own clerks. The judges shall be appointed for the term of eight years.

ART. 65. When the first appointments are made under this Constitution, the chief justice shall be appointed for eight years, one of the associate judges for six years, one for four years, and one for two years; and in the event of the death, resignation, or removal of any of said judges before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of this term; so that the term of service of no two of said judges shall expire at the same time.

ART. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November, to the end of the month of June inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 67. The supreme court and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process in all cases in which they may have appellate jurisdiction.

ART. 68. In all cases in which the judges shall be equally divided in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinions in writing.

ART. 69. All judges by virtue of their office shall be conservators of the peace throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name, and by the authority of the State of Louisiana, and conclude against the peace and dignity of the same.

ART. 70. The judges of all courts within this State shall as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which their judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings except for the payment of such fees to ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office or other compensation than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three fourths of the members present of each house of the general assembly. In every such case, the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney general for the State, and as many district attornies as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART 75. The first legislature assembled under this constitution, shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shall not be less than twelve, nor more than twenty.

For each district, one judge, learned in the law, shall be appointed, except in the districts in which the cities of New Orleans and Lafayette are situated, in which the legislature may establish as many district courts as the public interest may require.

ART 76. Each of the said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, and shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practiced law therein for the space of five years.

ART. 77. The judges of the district courts shall hold their offices for the term of six years. The judges first appointed shall be divided by lot into three classes, as nearly equal as can be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

ART. 78. The district courts shall have original jurisdiction in all civil cases, when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with succession, their jurisdiction shall be unlimited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts shall be removable for breach of good behavior by the judges thereof; subject in all cases to an appeal to the supreme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred, dollars, exclusive of interest, subject to appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish, for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the district courts in this State shall be elected by the qualified electors in each parish, for the term of four years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 83. A sheriff and a coronor shall be elected in each parish, by the qualified voters thereof, who shall hold their offices for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

TITLE V.

IMPEACHMENT.

ART. 84. The power of impeachment shall be vested in the House of Representatives.

ART. 85. Impeachments of the Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, and of the Judges of the District Courts, shall be tried by the Senate; the Chief Justice of the Supreme Court, or the senior Judge thereof shall preside during the trial of such impeachment. Impeachments of the Judges of the Supreme Court, shall be tried by the Senate. When sitting as a Court of Impeachment, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the Senators present.

ART. 86. Judgments in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust or profit under this State, but the parties convicted shall, nevertheless, be subject to indictment, trial and punishment according to law.

ART. 87. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency of such impeachment; The appointing power may make a provisional appointment to replace any suspended officer until the decision on the impeachment.

ART. 88. The Legislature shall provide by law for the trial, punishment and removal from office, of all other officers of the State, by indictment or otherwise.

TITLE VI.

GENERAL PROVISIONS.

ART. 89. Members of the General Assembly, and all officers, before they enter upon the duties of their offices shall take the following oath or affirmation:

"I (A. B.,) do solemnly swear (or affirm,) that I will faithfully and impartially discharge and perform all the duties incumbent on me as———, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States, and of this State; and I do, further, solemnly swear (or affirm) that, since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, with a citizen of this State, nor have I sent or accepted a challenge to fight a duel with deadly weapons with a citizen of this State, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending, so help me God."

ART. 90. Treason against the State shall consis only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given, or offered, a bribe to procure his election or appointment.

ART. 92. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon, from power, bribery, tumult or other improper practice.

ART. 93. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

ART. 94. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitration.

ART. 95. All civil officers for the State at large shall reside within the State, and all district or parish officers within their districts or parishes, and shall keep their offices at such places therein as may be required by law. And no person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election, or appointment, to have acquired the right of voting in such parish; and no person shall be elected or appointed to any district office, who shall not have resided in such district, or an adjoining district, long enough before such appointment, or election, to have acquired the right of voting for the same.

ART. 96. The duration of all offices not fixed

by this Constitution shall never exceed four years.

ART. 97. All civil officers, except the Governor and Judges of the Supreme and District Courts, shall be removable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this Constitution.

ART. 98. Absence on the business of this State or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this Constitution.

ART. 99. It shall be the duty of the Legislature to provide by law for deductions from the salaries of public officers who may be guilty of a neglect of duty.

ART. 100. The Legislature shall point out the manner in which a person coming into the State shall declare his residence.

ART. 101. In all elections by the people the vote shall be by ballot, and in all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 102. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the General Assembly or hold or exercise any office of trust or profit under the State.

ART. 103. The laws, public records and the judicial and legislative written proceedings of the State, shall be promulgated, preserved and conducted in the language in which the constitution of the United States is written.

ART. 104. The Secretary of the Senate, and Clerk of the House of Representatives, shall be conversant with the French and English languages; and members may address either House in the French or English language.

ART. 105. The General Assembly shall direct by law how persons who are now or may hereafter become sureties for public officers may be discharged from such suretyship.

ART. 106. No power of suspending the laws of this State shall be exercised, unless by the legislature or its authority.

ART. 107. Prosecutions shall be by indictment, or information. The accused shall have a speedy public trial by an impartial jury of the vicinage: he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right, unless he shall have fled from justice, of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor.

ART. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

ART. 109. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed; nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

ART. 110. The press shall be free. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The General Assembly which shall meet after the first election of Representatives under this Constitution, shall, within the first month after the commencement of the session, designate and fix the seat of government, at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route; and if on the Mississippi river, by the meanders of the same: and when so fixed, it shall not be removed without the consent of four-fifths of the members of both houses of the General Assembly, The sessions shall be held in New Orleans until the end of the year 1848.

ART. 113. The Legislature shall not pledge the faith of the State for the payment of any bonds, bills, or other contracts or obligations for the benefit or use of any person or persons, corporation or body politic whatever. But the State shall have the right to issue new bonds in payment of its outstanding obligations or liabilities, whether due or not; the said new bonds, however, are not to be issued for a larger amount, or at a higher rate of interest, than the original obligations they are intended to replace.

ART. 114. The aggregate amount of debts here after contracted by the Legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions or suppress insurections, unless the same be authorised by some law, for some single object or work, to be distinctly specified therein; which law shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall be irrepealable until principal and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first Legislature returned by a general election after its passage.

ART. 115. The Legislature shall provide by law for a change of venue in civil and criminal cases.

ART. 116. No lottery shall be authorised by this State, and the buying or selling of lottery tickets within the State, is prohibited.

ART. 117. No divorce shall be granted by the Legislature.

ART. 118. Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title.

ART. 119. No law shall be revised or amended by reference to its title; but in such case, the act revised, or section amended, shall be re-enacted and published at length.

ART. 120. The Legislature shall never adopt any system or code of laws by general reference to such system or code of laws, but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint stock company.

ART. 122. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

ART. 123. Corporations shall not be created in this State by special laws, except for political or municipal purposes; but the Legislature shall provide, by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

ART. 124. From and after the month of January, 1890, the Legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that

time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

ART. 125. The General Assembly shall never grant any exclusive privilege or monopoly, for a longer period than twenty years.

ART. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of Justice of the Peace.

ART. 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property, on which taxes may be levied, in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property, shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the Legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

ART. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the Legislature; provided, that the Mayor and Recorder shall be ineligible to a seat in the General Assembly; and the Mayor, Recorders, and Aldermen shall be commissioned by the Governor as Justices of the Peace, and the Legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

ART. 129. The Legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

ART. 130. Any citizen of this State who shall after the adoption of this Constitution, fight a duel with deadly weapons with a citizen of this State, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it with a citizen of this State, or who shall act as second, or knowingly aid and assist in any manner, those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this Constitution.

ART. 131. The Legislature shall have power to extend this Constitution, and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

ART. 132. The Constitution and Laws of this State, shall be promulgated in the English and French languages.

TITLE VII.

PUBLIC EDUCATION.

ART. 133. There shall be appointed a Superintendent of Public Education, who shall hold his office for two years His duties shall be prescribed by law. He shall receive such compensation as the Legislature may direct.

ART. 134. The Legislature shall establish free Public Schools throughout the State, and shall provide means for their support by taxation on property or otherwise.

ART. 135 The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of six per cent; which interest together with all the rents of the unsold lands, shall be appropriated to the support of such schools, and this appropriation shall remain inviolable.

ART 136. All moneys arising from the sales which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which at six per cent per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than to the establishment and improvement of said seminary of learning.

ART. 137. An University shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

ART. 138. It shall be called the "University of Louisiana," and the Medical College of Louisiana, as at present organized, shall constitute the faculty of medicine.

ART. 139. The Legislature shall provide by law, for its further organization and government; but shall be under no obligation to contribute to the establishment or support of said University by appropriations.

TITLE VIII.

MODE OF REVISING THE CONSTITUTION.

ART. 140. 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 three-fifths of the members elected to each House, and approved by the Governor, such proposed amendment or amendments shall be entered on their Journals, with the yeas and nays taken thereon, and the Secretary of State shall cause the same to be published, three months before the next general election, in at least one newspaper in French and English, in every parish in the State in which a newspaper shall be published; and if, in the Legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of State shall cause the same again to be published in the manner aforesaid, at least three months previous to the next general election for Representatives to the State Legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the qualified electors shall approve and ratify such amendment or

amendments, the same shall become a part of the Constitution: If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment, separately.

TITLE IX.

SCHEDULE.

ART. 141. The Constitution adopted in 1812 is declared to be superseded by this Constitution, and in order to carry the same into effect it is hereby declared and ordained as follows:

ART. 142. All rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith, shall continue as if the same had not been adopted.

ART. 143. Until the first enumeration shall be made as directed in Art. eighth of this Constitution, the parish of Orleans shall have twenty Representatives, to be elected as follows, viz:

Eight by the First Municipality, seven by the Second Municipality, and four by the Third Municipality, to be distributed among the nine Representative districts as follows, by allotting to the

First district,		two
Second	"	two
Third	"	three
Fourth	"	three
Fifth	"	three
Sixth	"	two
Seventh	"	two
Eighth	"	one
Ninth	"	one

And to that part of the parish on the right bank of the Mississippi, one

The Parish of Plaquemines shall have		three
"	St. Bernard,	one
"	Jefferson,	three
"	St. Charles,	one
"	St John the Baptist,	one
"	St. James,	two
"	Ascension,	two
"	Assumption,	three
"	Lafourche Interior,	three
"	Terrebonne,	two
"	Iberville,	two
"	West Baton Rouge,	one
"	East do	three
"	West Feliciana,	two
"	East do	three
"	St. Helena,	one
"	Washington,	one
"	Livingston,	one
"	St. Tammany,	one
"	Point Coupée,	one
"	Concordia,	one
"	Tensas,	one
"	Madison,	one
"	Carroll,	one
"	Franklin,	one
"	St. Mary,	two
"	St. Martin,	three
"	Vermillion,	one
"	Lafayette,	two
"	St Landry,	five
"	Calcasieu,	one
"	Avoyelles,	two
"	Rapides,	three
"	Natchitoches,	three
"	Sabine,	two
"	Caddo,	one
"	De Soto,	one
"	Ouachita.	one
"	Morehouse,	one
"	Union,	one
"	Jackson,	one
"	Caldwell,	one
"	Catahoula,	two
"	Claiborne,	two
"	Bossier,	one

Total, ninety eight.

And the State shall be divided into the following Senatorial Districts:

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall compose one senatorial district, and shall elect four senators;

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district with one senator;

The parish of Jefferson shall compose one district with one senator;

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator;

The parish of St. James shall compose one district, with one senator;

The parish of Ascension shall compose one district, with one senator;

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators;

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator;

The parish of East Baton Rouge shall compose one district, with one senator;

The parish of Point Coupée shall compose one district, with one senator;

The parish of Avoyelles shall compose one district, with one senator;

The parish of St. Mary shall compose one district, with one senator;

The parish of St. Martin shall compose one district, with one senator;

The parishes of Lafayette and Vermillion shall compose one district with one senator;

The parishes of St. Landry and Calcasieu shall compose one district, with two senators;

The parish of West Feliciana shall compose one district with one senator;

The parish of East Feliciana shall compose one district, with one senator;

The parishes of St. Helena and Livingston shall compose one district with one senator;

The parishes of Washington and St. Tammany shall compose one district, with one senator;

The parishes of Concordia and Tensas shall compose one district with one senator;

The parishes of Carroll and Madison shall compose one district, with one senator;

The parishes of Jackson, Union, Morehouse and Ouachita shall compose one district, with one senator;

The parishes of Caldwell, Franklin and Catahoula shall compose one district, with one senator;

The parish of Rapides shall compose one district, with one senator;

The parishes of Bossier and Claiborne shall compose one district, with one senator;

The parish of Natchitoches shall compose one district, with one senator;

The parishes of Sabine, De Soto and Caddo, shall compose one district, with one senator;

ART. 144. In order that no inconvenience may result to the public service from the taking effect of this Constitution, no office shall be su-

perceded thereby, but the laws of the State relative to the duties of the several officers, Executive, Judicial, and Military, shall remain in full force, though the same be contrary to this Constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, until the organization of the Government under this Constitution, and the entering into office of the new officers, to be appointed under said Government, and no longer.

ART. 145. Appointments to office by the Executive under this Constitution, shall be made by the Governor to be elected under its authority.

ART. 146. The provisions of article 28, concerning the inability of members of the Legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first Legislature elected under this Constitution.

ART. 147. The time of service of all officers chosen by the people, at the first election under this Constitution, shall terminate as though the election had been holden on the first Monday of November, 1845, and they had entered on the discharge of their duties at the time designated therein.

ART. 148. The Legislature shall provide for the removal of all causes now pending in the Supreme or other Courts of the State under the Constitution of 1812, to Courts created by this Constitution.

ART. 149. Appeals to the Supreme Court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas, and Concordia shall, until otherwise provided for, be returnable to New Orleans.

TITLE X.

ORDINANCE.

ART. 150. Immediately after the adjournment of the Convention, the Governor shall issue his Proclamation, directing the several officers of this State, authorized by law to hold elections for members of the General Assembly, to open and hold a poll in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this Constitution; and it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old Constitution, and under this Constitution. Each voter shall express his opinion by depositing in the ballot box a ticket whereon shall be written "the Constitution accepted," or "the Constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the parish judges and commissioners designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the Secretary of State, in conformity to the provisions of the existing law upon the subject of elections.

ART. 151. Upon the receipt of the said returns, or on the first Monday of December, if the returns be not sooner received, it shall be the duty of the Governor, the Secretary of State, the Attorney General, and the State Treasurer, in the presence of all such persons as may choose to attend, to compare the votes given at the said poll, for the ratification and rejection of this Constitution, and if it shall appear from said returns that a majority of all the votes given is for ratifying this Constitution, then it shall be the duty of the Governor to make proclamation of that fact, and thenceforth this Constitution shall be ordained and established as the Constitution of the State of Louisiana. But whether this Constitution be accepted or rejected, it shall be the duty of the Governor to cause to be published in the State paper the result of the polls, showing the number of votes cast in each parish for and against the said Constitution.

ART. 152. Should this Constitution be accepted by the people, it shall also be the duty of the Governor forthwith to issue his proclamation, declaring the present Legislature, elected under the old Constitution, to be dissolved, and directing the several officers of the State, authorized by law, to hold elections for members of the General Assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846) for Governor, Lieutenant Governor, Members of the General Assembly, and all other officers whose election is provided for pursuant to the provisions of this Constitution. And the said election shall be conducted, and the returns thereof made in conformity with existing laws upon the subject of State elections.

ART. 153. The General Assembly elected under this Constitution shall convene at the State House, in the city of New Orleans, upon the 2d Monday of February next, (1846) after the elections; and that the Governor and Lieutenant Governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said General Assembly to proceed with the transaction of business.

Adopted in Convention on the 14th day of May, 1845, in the city of New Orleans. In witness whereof we have hereunto subscribed our names.

JOSEPH WALKER,
President of the Convention,
and Senatorial Delegate of the county of Rapides.

Attest: HORATIO DAVIS,
Secretary of the Convention.

INDEX.

JOURNAL

OF THE

PROCEEDINGS OF THE CONVENTION

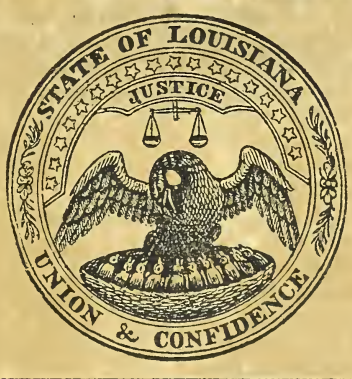
OF THE

STATE OF LOUISIANA,

BEGUN AND HELD

IN THE CITY OF NEW ORLEANS,

On the 14th day of January, 1845.



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PRINTERS TO THE CONVENTION.

.....

1845.

JOURNAL.

TUESDAY, January, 14, 1845.

Pursuant to adjournment the Convention of the State of Louisiana, elected for the purpose of amending, altering and changing the Constitution of the State of Louisina, met at the St. Louis Hall, in the city of New Orleans.

The President, the Hon. J. E. WALKER, called the Convention to order.

The roll being called, it appeared that Messrs. Brumfield, Boudousquie, Briant, Derbes, Hynson, Labauve, M'Rae, O'Bryan, Porter, Soule, Scott of Madison, Splane, Taylor of Assumption, Taylor of St. Landry, Wikoff, were absent.

The President submitted to the Convention that a resolution had been adopted at Jackson, on the 8th of August, 1844, last past, authorising the president to invite the clergymen in and about Jackson, to open in turn the sittings of the Convention, and inquire whether it was the will of the Convention that the resolution should apply to New Orleans.

Whereupon, Mr. LEWIS offered the following resolution, which was unanimously adopted:

"*Resolved*, That the president be au-
"thorized to invite each of the divines in
"and about the city of New Orleans, to
"daily open in turn the deliberations of
"this Convention."

Mr. MARIGNY, chairman of the committee, appointed by the Convention, sitting at Jackson, for the purpose of making the necessary arrangements for the meeting of the Convention in the city of New Orleans, submitted the following report:

Your committee first applied to the honorable the house of representatives for the purpose of procuring the hall of their sittings, for the use of the Convention; the house having refused to grant it, your committee were then under the necessity of seeking some other suitable place, and to provide the necessary furniture to enable the Convention to resume their labors. The account for the furniture will be presented to you in a few days, and will amount to about one thousand dollars.

Your committee applied to Mrs. Hawley, the lessee of the St. Louis ball room, with whom they made the following arrangements, subject to your approval; Mrs. Hawley furnishes the ball room and five rooms, destined for the use of the committees and clerks of the Convention. The principal room to be used by the Convention during its sittings, unless after the adjournment of the legislature the Convention should prefer the hall of the house of representatives.

Your committee have agreed to allow Mrs. Hawley fifteen dollars per day for the use of the said hall and rooms.

Your committee are under the impression that this room in every respect is suitable for the meetings of the Convention. They would observe that Mrs. Hawley reserves to herself the privilege of retaining the room on the 17th, 24th and 31st of January, and on the 4th of February, for the purpose of giving Society Balls, and will require it on those days at 4 o'clock, P. M.

Your committee deem it likewise proper to state for your information, that the City Council, of the First Municipality, design to place chains across the corners of Royal, Chartres and St. Louis streets, during the sittings of the Convention, so that their deliberations may not be disturbed by the running of carriages and other vehicles.

(Signed). B. MARIGNY, Chairman.
C. ROSELIUS,
G. LEONARD.

Mr. WINCHESTER offered the following resolution:

"*Resolved*, That this report be referred
"to a special committee of five members,
"with instruction to take this report into

"consideration and report thereon, and with "the further authority to inquire whether "another and more appropriate room for "the sittings of the Convention, cannot be "obtained in the city."

Mr. KENNER moved that the whole be laid on the table, subject to the call of the Convention on Thursday next—which motion was lost.

The question was then put on the adoption of the resolution, to refer the report of the committee to a special committee.

The question was lost.

The question was then put on the adoption of the report; which was carried.

On motion of Mr. GARCIA, leave of absence was granted Mr. Soulé, who was absent on account of illness.

Mr LEONARD moved that seats be prepared for the honorable the members of the legislature, and for other persons invited by the president, to attend the deliberations of the Convention—said motion was lost.

Mr. LEWIS moved that the newly elected members of New Orleans take their seats, and their credentials be referred to the committee on elections—and the same was adopted.

Mr. CONRAD, of New Orleans, submitted the following resolution:

"*Resolved*, That the secretary be directed to cause the various reports and counter reports made by the committees of the "Convention to be printed in such form as "will admit of amendments to be printed "therein."

Mr. DOWNS offered the following amendment to the above resolution, and the same was adopted:

"And that the Secretary be directed to "cause the same to be printed without delay, by the Printer of the Convention, and "in default of his ability to do so immediately, the Secretary shall employ another "printer to do the same."

On motion of Mr. GRYMES, it was ordered that the Convention proceed to the consideration of the first article of the Constitution, as reported by the committee appointed on that article.

The Convention formed itself into a committee of the whole, on the first article of the Constitution.

Mr. LEONARD in the chair.

The first section of the first article of the Constitution, as reported by the committee, was read; after some time, the committee rose and Mr. Leonard, the chairman, reported progress.

On motion, the Convention adjourned to to-morrow at 11 o'clock, A. M.

WEDNESDAY, January 15, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. SCOTT opened the proceedings by prayer.

Mr. RATLIFF, chairman of the committee on contingent expenses, offered the following resolution:

"*Resolved*, That the committee on con- "tingent expenses be instructed to inquire "into and ascertain the amount of mileage "due to each member of this body for his "travelling to, and returning home from "the Convention in New Orleans, and "direct the payment of the same."

Mr. BEATTY offered to the above resolution, the following amendment:

"And that the committee report to the Convention."

Mr. GUION moved that the whole be laid on the table, and the yeas and nays were called for, and

Messrs. *Aubert, Beatty, Bourg, Brent, Burton, Benjamin, Brumfield, Cade, Carriere, Cenas, Chambliss, Claiborne, Conrad of* N. Orleans, *Couvillon, Downs, Eustis, Garrett, Grymes, Guion, Hudspeth, Humble, Kenner, King, Ledoux, Legendre, Lewis, Marigny, Mayo, Mazareau, Peets, Penn, Prescott of* A voyelles, *Prescott of* St. Landry, *Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Trist, Voorhies, Waddill and Winder, voted in the affirmative,—44 yeas.*

And Messrs. *Chinn, Dunn, Leonard, McCallop, Preston, Ratliff, Reid, Scott of* Baton Rouge, *Scott of* Feliciana, *Stephens and Wederstrandt, voted in the negative,—11 nays.*

Consequently the motion was carried.

Mr. WINDER asked leave of absence for Mr. Taylor of Assumption, on account of severe domestic afflictions in his family; the same was granted.

Mr. DOWNS moved that a committee of five be appointed to revise and draft rules for the government of the Convention, and the same was adopted.

The president appointed on said committee, Messrs. Roman, Eustis, Mayo, Lewis and Reid.

The president announced to the Convention the resignation of Mr. L. Exnicois, as door-keeper to the Convention.

Mr. GRYMES moved that the president be authorised to appoint the door-keeper, which motion was lost.

Mr. DOWNS moved for the re-consideration of the report of the committee appointed by the Convention, at Jackson, for the purpose of making the necessary arrangements for the meeting of the Convention at New Orleans, adopted yesterday, which motion prevailed.

Mr. DOWNS then moved that the report of the said committee be laid on the table, subject to the call of the Convention, which motion was adopted.

Mr. LEWIS moved that the Convention proceed to the election of a door-keeper, and the same was carried.

Mr. RATLIFF nominated Mr. Eugene Remondet.

Mr. CULBERTSON nominated Mr. G. W. Reinecke.

Mr. PENN nominated Mr. J. K. Miles.

Mr. BOUDOUSQUIE nominated Mr. Faure.

Mr. GARCIA nominated Mr. Jos. Chevalier.

The Convention then preceeded to the election of door-keeper, sixty-three members present.

On motion of Mr. WEDERSTRANDT to appoint tellers, the president appointed Messrs. Dunn and Culbertson.

On counting the votes it appeared that

Mr. E. Remondet obtained		34 votes.
" G. W. Reinecke,	"	6 "
" J. K. Miles,	"	4 "
" Faure,	"	8 "
" Hickey,	"	1 "
" Blank,	"	2 "
		63 votes.

Mr. REMONDET having obtained thirty-four votes, the president proclaimed him duly elected door-keeper to the Convention.

Mr. MAYO moved that the reporters of the newspapers of the city of New Orleans be admitted in the Hall of the Convention during its sttings, which motion was adopted.

ORDER OF THE DAY.

The Convention then proceeded to the order of the day, viz: The report of the committee on the first article of the Constitution.

CONSTITUTION OF LOUISIANA.

ARTICLE 1st.

"SECTION 1. That the powers of the "government of the State of Louisiana "shall be divided into three distinct depart-"ments, and each of them to be confined to "a separate body of magistracy, to wit: "those which are Legislative to one, those "which are Executive to another, and those "which are Judiciary to another."

Mr. LEWIS moved to strike out after the words distinct departments, the word *and.*

Mr. PRESTON moved that the first article of the Constitution of 1812, be substituted for the one reported by the committee.

Mr. DOWNS moved for a division, that is, that the sections composing said article be divided, and said motion prevailed.

SECTION 1st. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy, viz: Those which are Legislative to one, those which are Executive to another, and those which are Judiciary to another.

Mr. PRESTON moved for the adoption of the first section of article first, of the Constitution of 1812. Which motion was carried.

Mr. LEWIS moved to adopt the second section of article first, as reported by the committee, viz:

"SEC. 2. No person or collection of per-"sons holding office under one of those de-"partments shall exercise any power pro-"perly belonging to either of the others; "except in instances hereafter expressly "directed or permitted."

Mr. GUION offered to the same the following amendment: "No person or persons "being one of those departments, or hold-"ing office under one of them, shall exer-"cise any powers properly," and Mr. Downs called for the yeas and nays, which resulted as follows:

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brumfield, Burton, Chinn, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Legendre, Lewis, Mazureau, Porche, Preston, Prudhomme, Pugh, Roman, St. Amand, Saunders, Scott* of Feliciana, *Stephens, Trist, Voorhies, Winchester and Winder*, voted in the affirmative—34 yeas.

Messrs. *Brazeale, Brent, Cade, Carriere, Cenas, Claiborne, Couvillon, Downs, Eustis, Humble, Ledoux, Leonard, McCallop, Marigny, Mayo, Peets, Penn, Prescott of* Avoyelles, *Prescott* of St. Landry, *Ratliff, Read, Scott of* Baton Rouge, *Sellers, Waddill, and Wederstrandt,* voted in the negative—25 nays; consequently the motion was carried.

Mr. DOWNS moved to insert the word *hereinafter* instead of *hereafter*, and the same was adopted.

Mr. PRESTON moved that the committee appointed to revise and draft rules for the Convention, be requested to report to-morrow morning.

On motion, the Convention adjourned to to-morrow, at 11 o'clock, A. M.

THURSDAY, January 16, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLAPP opened the proceedings by prayer.

Mr. ROMAN of the committee to whom had been referred the revising and drafting rules for the government of the Convention, reported that the committee recommended to the Convention the adoption of the forty-two first rules that had been temporarily adopted by the Convention at Jackson, and submitted to the consideration of the Convention some additional rules.

On motion of Mr. DOWNS, it was ordered that the forty-two rules temporarily adopted, be read, and that the Convention act on each of them separately.

The rules which were as follows, were read:

Touching the duty of the President.

1. He shall take the chair every day at the hour to which the Convention shall have adjourned on the preceding day; shall immediately call the members to order; and on the appearance of a quorum, shall cause the journal of the preceding day to be read.

2. He shall preserve order and decorum; may speak to points of order in preference to the members, rising from his seat for the purpose; and shall decide questions of order, subject to an appeal to the Convention, by any two members, on which appeal no member shall speak more than once unless by leave of the Convention.

3. He shall rise to put a question, but may state it sitting.

4. Questions shall be distinctly put in this form, to wit: "As many of you as are of opinion that," (as the question may be,) 'say aye,' and after the affirmative voice is expressed,—"as many of you as are of a contrary opinion, say no." If the president doubts, or if a division be called for, the Convention shall divide; those in the affirmative of the question shall rise from their seats, and afterwards those in the negative. The president shall then rise and state the decision of the Convention.

5. All committees shall be appointed by the president, unless otherwise specially directed by the Convention; in which case they shall be appointed by a *viva voce* vote of the Convention, and if upon such vote the number required shall not be elected by a majority of the vote given, the Convention shall proceed to vote until a majority be obtained.

6. The president shall have the right to examine and correct the journal before it is read. He shall have a general direction of the Hall. He shall have the right to name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.

7. In all cases of ballot or *viva voce* vote, by the Convention, the president shall vote; in other cases he shall not vote, unless the Convention be equally divided, or unless his vote, if given to the minority, will make a division equal; and in case of such equal division, the question shall be lost.

8. In case of any disturbance or disorderly conduct in the gallery or lobby, the president, (or chairman of the committee of the whole Convention,) shall have the power to order the same to be cleared.

9. No person shall be admitted within the bar but the members of the Convention, officers of the General or State Government, and such other persons as the president may think proper to invite to a seat in the Convention.

Of Decorum and Debate.

10. When any member is about to speak in debate, or deliver any matter to the Convention, he shall rise from his seat, and respectfully address himself to the president.

11. If any member in speaking or otherwise, transgress the rules of the Conven-

tion, the president shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the Convention shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the chair shall be submitted to; if the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the Convention.

12. When two or more members happen to rise at once, the president shall name the person who is first to speak.

13. No member shall speak more than twice on the same question, without leave of the Convention, nor more than once, until every member choosing to speak, shall have spoken.

14. Whilst the president is putting any question, or addressing the Convention, none shall walk out of or across the hall; nor, in such case, or when a member is speaking, shall entertain private discourse, nor whilst a member is speaking, shall pass between him and the chair.

15. No member shall vote on any question, in the event of which he is immediately and particularly interested; or in any other case, when he is not present when the question was put, without leave of the Convention.

16. Upon a division and count of the Convention on any question, no member without the bar shall be counted.

17. Every member who shall be in the Convention when a question is put, shall give his vote, unless the Convention, for special reasons, shall excuse him.

18. When a motion is made and seconded, it shall be stated by the president, or, being in writing, it shall be handed to the chair, and read aloud by the secretary, before debated.

19. Every motion shall be reduced to writing, if the president or any member desire it.

20. After a motion is stated by the president, or read by the secretary, it shall be deemed to be in possession of the Convention, but may be withdrawn at any time before a decision or amendment.

21. When a question is under debate, no motion shall be received, but to adjourn; to lay on the table; for the previous question; to postpone to a day certain; to commit or amend; to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged; and no motion to postpone to a day certain, to commit or postpone indefinitely, being decided, shall be again allowed on the same day, and at the same stage of the proposition.

22. A motion to adjourn shall always be in order; that and the motion to lay on the table, shall be decided without debate.

Mr. Downs moved to amend it by striking out the words "*that and the motion to lay on the table.*" His motion was carried by the casting vote of the president.

The rule as amended, viz: "A motion "to adjourn shall always be in order, and "shall be decided without debate," was adopted.

23. All questions except those enumerated in rule 21st, shall be put in the order they are moved, except that in filling up blanks, the largest sum and the largest time shall be first put.

24. The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by a majority of the members present, and until it is decided, shall preclude all amendments and further debate of the main question, and must be decided without debate.

25. When the Convention adjourns, every member shall keep his seat, until the president passes the last seat on his way out of the Convention.

26. Any member may call for the division of the question, when the sense will admit of it.

27. A motion for commitment, till it is decided, shall preclude all amendment of the main question.

28. Motions and reports may be committed at the pleasure of the Convention.

29. No new motion or proposition on a subject, different from that under consideration, shall be admitted under color of amendment, or as a substitute for the motion or proposition under debate.

30. When a motion has once been made, or carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof; *Provided*, it is made on the same

day or the next sitting day, before the order of the day is taken up.

31. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Convention.

32. The unfinished business in which the Convention was engaged, at the time of the last adjournment, shall have the preference in the orders of the day; and no motion, or any other business, shall be received without special leave of the Convention, until the former is disposed of.

33. In all other cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot, the ballot shall be repeated until a majority be obtained.

34. In all cases when others than members of the Convention may be eligible, there shall be a previous nomination.

35. Any five members, including the president, shall be authorized to compel the attendance of absent members.

36. Upon calls of the Convention, or in taking the yeas and nays in any question, the names of the members shall be called alphabetically.

37. Any member may excuse himself from serving on any committee at the time of his appointment, if he is then a member of other committees.

Rule 38. "No member shall absent himself from the service of the Convention, "unless he have leave, or be sick and unable to attend."

Mr. LEONARD moved to amend this rule by striking out the words *he have leave;* the amendment was lost, and the rule adopted.

38. No member shall absent himself from the service of the Convention, unless he have leave, or be sick and unable to attend.

39. In order to insure the punctual attendance of the members, a call shall take place at the commencement of every day's sitting, by the secretary, who shall note the absentees; but shall remove the notes from the names of such members as appear in the course of that day's sitting; the names of those who do not attend, shall be entered on the Journal, and they shall receive no salary for that day, unless excused by the Convention.

40. A sergeant-at-arms shall be appointed to hold his office during the pleasure of the Convention, whose duty it shall be to attend the Convention during its sittings; to execute the commands of the Convention from time to time, together with all such process issued by authority thereof, as shall be directed to him by the president.

41. There shall be a committee of elections, whose duty it shall be to examine and report upon the certificate of election or other credentials of the members returned to serve in this Convention, and to take into consideration all such petitions and other matters touching elections and returns, as shall or may be presented or come in question, and be referred to them by the Convention, and on any other matter in relation to the manner, times and places of holding elections.

42. No committee shall sit during the sitting of the Convention, without special leave.

43. No standing rule or order of the Convention shall be recinded without one day's notice being given of the motion thereof.

44. The secretary of the Convention shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities; and shall be deemed to continue in office until another be appointed. He shall enter in the journals all motions on which a vote of the Convention shall have been taken.

45. The secretary shall not suffer any records or papers to be taken from the table, or out of his custody, by any member, or other person.

46. No standing rule or order of the Convention shall in any case be suspended or dispensed with, without the concurrence of four-fifths of the members present.

Rule 50. "It shall be a standing order, "that the Convention shall every day re"solve itself into a committee of the whole, "to consider the existing Constitution, and "such propositions for the amendment or "alteration thereof, as shall be referred to "or made in said committee."

On motion of Mr. RATLIFF, the said rule was rejected.

Mr. CONRAD moved for the re-consideration of the 30th rule, and his motion prevailed:

Rule 30. "When a motion has once been made, or carried in the affirmative or negative, it shall be in order for any member

of the majority to move for the re-consideration thereof, provided it is made on the same day, or the next sitting day before the order of the day is taken up."

On motion of Mr. CONRAD, this rule was amended by the addition of the following proviso, viz: "provided further, that this rule do not apply to the provision of the Constitution which may have been adopted, and which shall always be subject to re-consideration, after two days' notice being given thereof," which motion was granted, and the rule adopted as amended.

On motion of Mr. RATLIFF, the Convention re-considered the 35th rule and rejected it.

Rule 51. "In forming the committee of the whole, the president shall leave the chair, and a chairman to preside in committee shall be appointed by the president;" which rule was rejected.

Rule 52. "In the committee of the whole Convention, the ayes and nays shall not be called." This rule was rejected.

Rule 47. "Every member in addressing the Convention, shall confine himself strictly to the subject matter under debate, and the address of no member to the Convention shall exceed one hour, unless by special permission of the Convention."

On motion of Mr. LEWIS, the rule was amended by striking out the words "*and the address of no member to the Convention shall exceed one hour, &c.;*" and the rule as amended, viz:

"Every member in addressing the Convention, shall confine himself strictly to the subject matter under debate;" was adopted.

Mr. ROMAN'S additional article, viz:

Rule 48. "There shall be appointed a standing committee of five, whose duty it shall be to revise, in English and French, every article of the Constitution, after it is adopted by the Convention, and report the same to the Convention on the next day, or as soon thereafter as practicable for its second reading,—was read and adopted.

Rule 49. "In all cases to which the above rules will not apply, the Jefferson's manual shall govern the Convention." The same was adopted.

Mr. DOWNS moved that the rules be printed in pamphlet form, in the French and English languages, and that one hundred copies be printed in each of the languages, which motion prevailed.

Mr. DOWNS moved to incorporate among the rules the following, viz: "The documents ordered to be printed by the Convention and the debates of the Convention, in pamphlet forms, shall be printed on paper of the same size of the printed journals of this Convention, and a copy sheet be bound with each journal, to be furnished to the members of the Convention, at the end of the session, and it shall be the duty of the printer of the Convention, to print one hundred additional copies ordered to be printed for the above purpose."

Mr. LEWIS moved to lay the same on the table subject to the call of the Convention; his motion prevailed.

Mr. SELLERS moved, that the statistical information called for by the Convention, and furnished by the reports of the State Treasurer, be printed as speedily as possible.

Mr. WADSWORTH moved that a committee be appointed to examine the reports, containing this statistical information before printing; which motion was lost.

Mr. SELLERS' motion was then adopted.

ORDER OF THE DAY.

ARTICLE I.

SECTION 2. "No person or persons being "one of these departments or holding office "under one of them, shall exercise any "powers properly belonging to either of the "others; except in the cases hereinafter ex- "pressly directed or permitted," was read and adopted.

Mr. LEWIS moved to take up the second article of the Constitution, and that the sections of the Constitutions of 1812 be first read, and then the sections as reported by the committee.

ARTICLE II. OF THE CONSTITUTION OF 1812.

SECTION 1. "The Legislative power of "this State shall be vested in two distinct "branches, the one to be styled the House "of Representatives, the other the Senate, "and both together the General Assembly "of the State of Louisiana," was read.

Mr. RATLIFF moved the re-adoption of this section of the Constitution of 1812, and his motion prevailed:

ARTICLE II. AS REPORTED BY THE COMMITTEE.

SECTION 1. "The Legislative power of "this State shall be vested in two distinct "branches, the one to be styled the House "of Representatives, the other the Senate; "and both together, the General Assembly "of the State of Louisiana," was read.

ARTICLE II. OF THE CONSTITUTION OF 1812.

SECTION 2. "The members of the House "of Representatives shall continue in ser- "vice for the term of two years from the day "of the commencement of the general elec- "tion," was read.

ARTICLE II. AS REPORTED BY THE COMMITTEE.

SECTION 2. "The members of the House "of Representatives shall continue in ser- "vice for the term of two years from the day "of the closing of the general elections," was read and adopted.

ARTICLE II. OF THE CONSTITUTION OF 1812.

SECTION 3. "Representatives shall be "chosen on the first Monday in July, every "two years, and the General Assembly shall "convene on the first Monday in January in "every year, unless a different day be ap- "pointed by law, and their sessions shall "be held at the seat of government," was read.

ARTICLE II. AS REPORTED BY THE COMMITTEE.

SECTION 3. "Representatives shall be "chosen on the first Monday, one day only, "in September every two years, and the "General Assembly shall convene on the "third Monday in January in every second "year, unless a different day be appointed "by law, and their different sessions shall be "held at the seat of government."

"The first election under this Constitu- "tion shall take place in the year ———," was read.

Mr. WINDER moved to strike out the word "September," and insert in lieu there- of the word "June."

Mr. SELLERS moved to amend the amend- ment by striking out the name of the month and leaving it blank.

While this motion was under debate, the Convention adjourned to to-morrow, at 11 o'clock, A. M.

FRIDAY, JANUARY 17, 1845.

The Convention met pursuant to adjourn- ment.

The Rev. Mr. NICHOLSON opened the proceedings by prayer.

The PRESIDENT submitted the following letter from the Right Rev. Blanc, Bishop of New Orleans:

NEW ORLEANS, January 15, 1845.

Bishopric of New Orleans:

SIR—I have the honor to acknowledge the reception of your note of this date.

In answer, I beg leave to state that as soon as I was informed that the Convention of our State had assembled in the town of Jackson, I instructed the clergy and laity under my charge to offer up public prayers, that the Almighty might in his goodness vouchsafe to direct the deliberations of the Convention, so that their decisions might be profitable to the people in whose behalf they were assembled, and that these prayers should be continued daily during the entire session of the Convention.

In relation to the daily opening prayer, I would beg leave, respectfully, to request in the name of my clergy, that we be dispen- sed from attending to it. Any arrange- ments which the divines, who may have be- gun, will make between themselves, will be agreeable to us. I have the honor to be, very respectfully, your obedient servant.

ANT. BP. OF NEW ORLEANS.

To the Hon. Jo. E. Walker, President of the State Convention of Louisiana.

Mr. RATLIFF, chairman of the committee on contingent expenses, moved that the sum of $100 be allowed Mr. Kelly, printer to the Convention, for the printing of one hun- dred pamphlets, and $50 for printing blank warrants for the Convention, and the same was allowed.

Mr. DOWNS offered the following resolu- tion, viz:

"*Resolved*, That the sergeant-at-arms, under the direction of the president of the Convention, be directed to provide seats in the lobby, for the use of such persons as may attend the procedings of the Conven- tion, and suitable seats and tables for the reporters of the several newspapers of the city." The same was adopted.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 3. "Representatives shall be chosen

on the first Monday, one day only, in September, every two years, and the General Assembly shall convene on the third Monday in January, in every second year, unless a different day be appointed by law, and their different sessions shall be held at the seat of government."

On the adjournment, yesterday, the Convention had under consideration the motion to strike out the word *September*.

Mr. TAYLOR, of Assumption, moved to lay on the table, subject to call, the motion to strike out.

His motion was lost.

Mr. RATLIFF called for the yeas and nays, on the motion to strike out, and

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Brent*, *Briant*, *Burton*, *Cenas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mayo*, *Mazureau*, *Penn*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Pugh*, *Ratliff*, *Roman*, *Roselius* *St. Amand*, *Saunders*, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Wadsworth*, *Winchester*, and *Winder*, voted in the affirmative—48 yeas.

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brumfield*, *Cade*, *Carriere*, *Covillion*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Peet*, *Porche*, *Prudhomme*, *Read*, *Scott*, of Baton Rouge, *Scott*, of Feliciana, *Voorhies*, *Waddill*, and *Waderstrand*, voted in the negative—20 nays; consequently the motion was carried.

Mr. WINDER moved to fill the blank with the word *June*, and the yeas and nays being called for, resulted as follows:

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad*, of New Orleans, *Conrad*, of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *St. Amant*, *Saunders*, *Winchester*, and *Winder*, voted in the affirmative—28 yeas.

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Couvillon*, *Downs*, *Eustis*, *Garcia*, *Garrett*, *Huble*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Prescott*, of Avoyelles, *Prescott*, of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott*, of Baton Rouge, *Scott*, of Feliciana, *Sellers*, *Splane*, *Stephens*, *Taylor*, of Assumption, *Trist*, *Voorhies*, *Waddill*, *Wadsworth*, and *Wederstrand*, voted in the negative—40 nays; consequently the motion was lost.

Mr. MCRAE moved to fill the blank with the word *October*; and the yeas and nays being called for, resulted as follows:

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Prescott*, of Avoyelles, *Prescott*, of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Voorhies* and *Wederstrand*, voted in the affirmative—26 nays.

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Burton*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mazareau*, *Preston*, *Pugh*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill*, *Wadsworth*, *Winchester* and *Winder*, voted in the negative–42 nays; the motion was lost.

On motion of Mr. BURTON to fill up the blank with the word *November*, the yeas and nays being called, resulted as follows:

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carrierre*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Leonard*, *McCallop*, *McRea*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrand* and *Winder*, voted in the affirmative—33 yeas.

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mazareau*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Splane*, *Trist*, *Wadsworth* and *Winchester*, voted in the negative—34 nays; the motion was therefore lost.

Mr. MCREA moved that the Convention adjourn till to-morrow at 11 o'clock A. M., and the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Carriere*, *Covillion*, *Chambliss*, *Downs*, *Dunn*, *Hudspeth*, *Humble*, *King*, *Labauve*, *Leonard*, *McRae*, *Marigny*, *Mayo*, *Peets*,

Porche, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens* and *Waddill*, voted for the motion—25 yeas.

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Burton*, *Cade*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Eustis*, *Garcia*, *Garrett*, *Grymes*, *Guion*, *Kenner*, *Ledoux*, *Legendre*, *Lewis*, *McCallop Mazareau*, *Penn*, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Splane*, *Taylor* of Assumption, *Trist*, *Wadsworth Wederstrand*, *Winchester* and *Winder*, voting against the motion, 43 nays; the same was lost.

Mr. GARRETT moved to fill up the blank with the words the *fourth Monday of November*.

The PRESIDENT decided this motion to be out of order, because the blank was to be filled by the name of the month only, the section containing already the particular Monday of the month—and Mr. Garrett proposed to appeal from the decision of the chair.

Mr. EUSTIS moved to fill up the blank with the word *July*, and before putting the question, on motion of Mr. CHINN, the Convention adjourned till to-morrow at 11 o'clock, A. M.

NOTE.—Members absent, Messrs. Hynson, O'Bryan, Porter, Scott of Madison, Soulé on leave, Taylor of St. Landry, and Wikoff.

SATURDAY, JANUARY 18, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WATKINS opened the proceedings by prayer.

Mr. SPLANE, having voted in the majority, moved the re-consideration of the vote given on yesterday, to fill the blank in section 3d, article 2d, with the word "*November*," his motion was adopted.

The PRESIDENT appointed on the committee of revisal, Messrs. Eustis, Roman, Miles Taylor, Brent and Mazareau.

ORDER OF THE DAY.

ARTICLE SECOND, AS ROPORTED BY THE COMMITTEE.

SEC. 3d. Representatives shall be chosen on the first Monday, one day only, in——, every two years; and the General Assembly shall convene on the third Monday of January, in every second year, unless a different day be appointed by law, and then different sessions shall be held at the seat of government.

The first election under this constitution, shall take place in the year ——.

Mr. PENN moved that the Convention take up, as first in order, the question to fill up the blank in the 3d section, article second, with the month "*November*."

The PRESIDENT decided that the carrying the motion to re-consider the vote given yesterday, to fill the blank in the 3d section of article 2d, with the month of "*November*," did not disturb the right of precedence of the motion of Mr. Eustis, to fill the blank with the month of "*July*." That motion being under consideration at the preceding adjournment.

Mr. MAYO appealed from the decision of the president; the Convention sustained the decision of the chair.

Mr. GRYMES gave notice that he will, on some future day, offer an amendment to section 3d and article 2d, of the Constitution, as reported by the committee.

On the motion of Mr. EUSTIS, to fill up the blank with "*July*," the yeas and nays being called for, resulted as follows:

Messrs. *Beatty*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Cenas*, *Claiborne*, *Derbes*, *Grymes*, *Hudspeth*, *Humble*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Mazareau*, *Prudhomme*, *Read*, *Romain*, *Roselius*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Trist* and *Wadsworth*, voted in the affirmative—28 yeas; and

Messrs. *Auburt*, *Benjamin*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Downs*, *Dunn*, *Garrett*, *Guion*, *Hynson*, *Kenner*, *Leonard*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porter*, *Porche*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Pugh*, *Ratliff*, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrand* and *Winder*, voted in the negative—39 nays; consequently the motion was lost.

Mr. GUION moved that the blank be filled with the word "*May*," and the yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Cenas*, *Chinn*, *Claiborne*,

Conrad of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazareau*, *Pugh*, *Ratliff*, *Romain*, *Roselius*, *Saunders*, *Sellers* and *Trist*, voted for the motion—28 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wadsworth* and *Wederstrand*, voted against the motion—37 nays; which motion was lost.

Mr. Splane moved to fill the blank with the word "*November*," and the yeas and nays having been called for, resulted as follows:

Messrs. *Beatty*, *Benjamin*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Chinn*, *Claiborne*, *Covillion*, *Culbertson*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Read*, *Roselius*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Splane*, *Stephens*, *Taylor*, of Assumption, *Voorhies*, *Waddill*, *Wadsworth*, *Wederstrand* and *Winder*, voted in the affirmative—48 yeas; and

Messrs. *Aubert*, *Boudousquie*, *Bourg*, *Briant*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Mazareau*, *Ratliff*, *Roman*, *Saunders* and *Trist*, voted in the negative—18 nays, consequently the motion was carried.

Mr. Kenner moved to strike out the *first Monday* and insert the *fourth Monday*, and the yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Kenner*, *Labauve*, *Legendre*, *Lewis*, *Mazareau*, *Preston*, *Pugh*, *Roman*, *Roselius*, *Sanders*, *Sellers*, *Splane*, *Taylor* of Assumption, and *Winder*, voted in favor of the motion—32 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens*, *Trist*, *Voorhies*, *Waddill*, *Wadsworth* and *Wederstrand*, voting against the motion—35 nays, the same was lost.

Mr. Conrad of New Orleans, moved to fill the blank in the 3d section, article 2d, with the words "third monday of November."

Mr. Waddill moved for a division, that is, that the Convention shall first proceed to strike out the "first monday," his motion was adopted.

The yeas and nays were then called for on the motion to strike out the "first monday," and resulted as follows:

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Mazareau*, *Roman*, *Roselius*, *Saunders*, *Sellers*, *Splane*, *Taylor* of Assumption, and *Trist*, voted in the affirmative—28 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Leonord*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens*, *Voorhies*, *Waddill*, *Wederstrand* and *Winder*, voted in the negative—30 nays, consequently the motion was lost.

Mr. Culbertson gave notice that he would move the re-consideration of the vote given to fill the blank, in the 3d section of article 2d, with the month of "November."

Mr. Mayo moved to fill the blank in the last paragraph of section 3d, article 2d, with "1845."

Mr. Dunn gave notice that he would move the re-consideration of the vote given to fill the blank in the 3d section, article 2d, with the month of "July."

Mr. Beatty moved to lay the motion, to fill the blank in last paragraph in the 3d

section, article 2d, with "1845," on the table, subject to call—the same was adopted.

On motion, the Convention adjourned till monday next at 11 o'clock, a. m.

NOTE.—Members absent, Messrs. Garcia, O'Bryan, St. Amant, Scott of Madison, Soulé on leave, Taylor of St. Landry, Wikoff and Winchester.

MONDAY, January 20th, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. PRESTON opened the proceedings by prayer.

Mr. VOORHIES submitted to the Convention a memorial from Mr. John D. Wilkins of the county of Attakapas, suggesting his views on the amendments, alterations, or changes to be made to the Constitution of the State of Louisiana; and pending the reading,

Mr. TAYLOR of Assumption moved that the said memorial be laid on the table indefinitely, and the ayes and nays being called for, resulted as follows:

Messrs, Aubert, Beatty, Bourg, Brazeale, Briant, Brumfield, Burton, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Labauve, Legendre, Lewis, M'Rae, Marigny, Mayo, Mazureau, Peets, Porche, Prudhomme, Pugh, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Trist and Winder voted in the affirmative,—40 yeas, and

Messrs. Brent, Cade, Carriere, Censas, Chambliss, Conrad of Jefferson, Covillion, Culbertson, Derbes, King, Leonard, O'Bryan, Penn, Porter, Prescott of St. Landry, Prescott of Avoyelles, Preston, Ratliff, Scott of Feliciana, Splane, Voorhies, Waddill and Wederstrandt voted in the negative,—23 nays, the motion was therefore adopted.

The PRESIDENT submitted the following letter from J. A. Kelly, printer to the Convention, which was read:

JANUARY 20th, 1845.

To Hon. Joseph Walker, President of the Convention of Louisiana.

DEAR SIR:—To facilitate the printer to the Convention in the punctual discharge of his duties, he respectfully asks that a draft be drawn on the State Treasurer in his favor on account of printing already done for the sum of three hundred and fifty dollars; you will please call the attention of the Convention to this subject and greatly oblige Your ob't serv't.

(Signed) J. A. KELLY.

On motion of Mr. Garrett, said letter was referred to the committee on contingent expenses.

Mr. MAYO moved the re-consideration of the vote given on Saturday to fill the blank in the last paragraph of section third and article second with 1845, and laid on the table subject to the call of the Convention, which motion was adopted.

Mr. BEATTY moved that the same be laid on the table subject to the call of the Convention, and called for ayes and nays, and

Messrs. Aubert, Beatty, Benjamin, Brent, Bourg, Briant, Carriere, Censas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Guion Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Peets Penn, Preston, Prudhomme, Pugh, Read Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Wadsworth and Winder voted in the affirmative —47 ayes, and

Messrs. Brazeale, Brumfield, Burton Cade, Covillion, Garrett, Humble, Hynson, Leonard, McRae, Mayo, Porche, Porter, Prescott of Avoyelles, Prescott of St Landry, Ratliff, Soulè, Waddill and Wederstrandt voted in the negative,—19 nays consequently the motion was lost.

Mr. CULBERTSON withdrew the notice he gave to re-consider the vote given to fill the blank in the third section, article second with the month of "November."

Mr. DUNN, agreeably to notice, moved the re-consideration of the vote given to fill the blank in the third section, article second with the month of "July."

Mr. CULBERTSON moved to lay said motion on the table subject to the call of the Convention, and his motion was lost.

Mr. DUNN then renewed his motion for re-consideration, and the same was lost—some of the delegates declared that they had misunderstood the question.

Mr. WADSWORTH gave notice that

would, on Thursday next, move the re-consideration of the vote given to fill the blank in the third section, article second, with the month of "November."

Mr. Benjamin gave notice that he would move the re-consideration of the vote given to fill the blank in the third section, article second with "July."

ORDER OF THE DAY.

ARTICLE SECOND.

Sec. 3d. "Representatives shall be chosen on the first Monday, one day only, in November every two years, and the general assembly shall convene on the third Monday in January next ensuing the election in every second year, unless a different day be appointed by law, and their different sessions shall be held at the seat of government."

The first election under this Constitution shall take place in the year———.

Mr. Read moved to adopt the first paragraph of section third, article second of the Constitution as amended.

Mr. Preston moved to strike out after the words "In January in every," the word "second" from the said first paragraph of section third, article second; and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Guion, Preston, Pugh, Stephens, Taylor of Assumption and Winchester voted in favor of the motion,—7 yeas, and

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Cenas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Leonard, Lewis, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Trist, Voorhies, Waddill, Wederstrandt and Winder voted against the motion,—60 nays, which motion was therefore lost.

Mr. Downs moved to amend said 3d section of article 2d by inserting in the first paragraph, after the word ——— the words "next ensuing the election," and his motion was adopted.

Mr. Culbertson moved to strike out from the first paragraph of the 3d section, article 2d, the words "*unless a different day be appointed by law*," and his motion was lost.

Mr. Read moved for the adoption of the first paragraph of the 3d section, article 2d, and called for the yeas and nays, and

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Garcia, Garret, Hudspeth, Humble, Hynson, King, Labauve, Ledoux, Legendre, Leonard, Lewis, McRae, Marginy, Mayo, Mazureau, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Roman, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Taylor of Assumption, Trist, Voorhies, Waddill and Wederstrandt, voted in the affirmative—60 yeas, and

Messers Grymes, Guion, Kenner, Pugh, Roselius, Saunders, Stephens and Winchester voted in the negative—8 nays: the motion was adopted.

Mr. Lewis moved that the Convention take under consideration the 4th section article 2d of the Constitution as reported by the committee—viz:

Article II.

"Section 4. No person shall be a representative who, at the time of his election, is not a free white male citizen of the United States and hath not attained the age of twenty-one years, and resided in the State two years next preceding his election, and the last year thereof in the parish for which he may be chosen."

Mr. Sellers moved to reject the said 4th section of article 2d.

Mr. Read offered the following substitute, viz:

"Every qualified elector, under this Constitution shall be eligible to a seat in the house of representatives"—in lieu of the 4th section of article 2d, and called for the yeas and nays—and

Messrs. Brazeale, Brent, Chambliss, Ledoux, McRae, Mayo, Peets, Porche, Preston, Read, Scott of Feliciana, Scott of

Madison, Stephens, Trist and Waddill voted for the substitute—15 yeas, and

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Briant, Brumfield, Burton Cade, Carriere, Cénas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Garcia, Grymes, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Legendre, Ledoux, Leonard, Lewis, Marigny, Mazureau, O'Bryan, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Roselius Scott of Baton Rouge, Sellers, Soulé, Splane, Taylor of Assumption, Voorhies, Wederstrandt, Winchester and Winder voted against the substitute—52 nays, consequently the same was rejected.

On motion of Mr. Guion, Mr. Sellers' motion to reject the 4th section of article 2d, was laid on the table indefinitely.

Mr. Kenner, moved to strike out of the 4th section, article 2d after the words, "and resided in the State" the word "two," and called for the yeas and nays, which resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Briant, Brumfield, Burton, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Taylor of Assumption, Trist Voorhies, Wadsworth, Winchester and Winder voted in the affirmative—36 yeas, and

Messrs. Brazeale, Brent, Cade, Carriere, Cénas, Chambliss, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard, McRae, Marginy, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott, of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Waddill and Wederstrandt voted in the negative—33 nays, the motion prevailed.

Mr. Downs moved an adjournment till to-morrow at 11 o'clock A. M., and the yeas and nays being called

Messrs. Briant, Cénas, Conrad of New Orleans, Conrad of Jefferson, Downs, Dunn, Eustis, Garcia, Kenner, Labauve, Legendre, Leonard, Mazureau, Preston, Ratliff, Roselius, Scott of Feliciana, Taylor of Assumption, Trist, Voorhies, Wadsworth, Wederstrandt and Winchester voted for the adjournment—23 yeas, and

Messrs. Aubert, Beatty, Benjamin, Boudousquié Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Culbertson, Derbes, Grymes, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Lewis, McRae, Marigny, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill and Winder voted against the adjournment—45 nays, and the same was not adopted.

On motion of Mr. Lewis, the Convention adjourned till to-morrow at 10 o'clock, A. M.

Note.—Members absent, Messrs Chinn, McCallop St. Amand, Taylor of St. Landry, and Wikoff.

Tuesday, January 21st, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Woodbridge opened the proceedings by prayer.

ORDER OF THE DAY.

ARTICLE SECOND AS REPORTED BY THE COMMITTEE.

Sec. 4. No person shall be a representative who, at the time of his election, is not a free white male citizen of the United States, and has not attained the age of twenty-one years, and resided in the State years next preceding his election, and the last year thereof in the parish for which he may be chosen.

Mr. Dunn moved to fill the blank in the above section fourth, article second, with the word "five," and called for the yeas and nays, which resulted as follows:

Messrs. Aubert, Beatty, Bourg, Briant, Brumfield, Burton, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Sellers, Stephens, Taylor of Assumption, Voorhies, Wadsworth, Winchester and Winder voted in the affirmative,—32 yeas, and

Messrs. Benjamin, Brazeale, Brent, Cade, Carriere, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McRae,

Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Trist, Waddill and Wederstrandt voted in the negative,—32 nays, and the president giving his casting vote against the amendment; the same was lost. After the adjournment, Mr. Chambliss called at the desk, examined the ayes and nays and not finding his vote recorded, directed it to be inserted, as he had voted against the amendment.

Mr. Lewis then moved to fill the blank in the said fourth section, article second with the word "four," and called for the yeas and nays, and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillon, Derbes, Dunn, Garcia, Guion, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Saunders, Sellers, Stephens, Taylor of Assumption, Voorhies, Wadsworth, Winchester and Winder voted in the affirmative,—34 yeas, and

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Reid, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Trist, Waddill and Wederstrandt voted against the amendment,—31 nays; the same was adopted.

Mr. Voorhies offered to the said fourth section of article second the following proviso, viz:

"Provided, that in case he be a naturalized citizen, the time of his residence in the State, shall be computed from the time of his naturalization," and the yeas and nays being called for, resulted as follows, viz:

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Briant, Brumfield, Burton, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillon, Culbertson, Derbes, Dunn, Grymes, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Stephens, Taylor of Assumption, Trist, Voorhies, Wadsworth, Winchester and Winder voted in favor of the amendment, —39 yeas, and

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Eustis, Garcia, Humble, Hynson, Ledoux, Leonard, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Reid, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Waddill and Wederstrandt voted against the amendment,—32 nays; consequently the same was carried.

On motion, the Convention adjourned till to-morrow at 10 o'clock A. M.

Note.—Members absent: Messrs. Chinn, McCallop, St. Amand, Taylor of St. Landry and Wikoff.

Wednesday, January, 22, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings by prayer.

Mr. Ratliff, chairman of the committee on contingent expenses, offered the following resolution which was read and adopted:

"*Resolved*, That J. A. Kelly, printer to the convention be allowed the sum of three hundred and fifty dollars, on account of printing done and to be done by the said Kelly under a resolution of the convention."

Mr. Carriere, offered the following resolution:

"*Resolved*, That the committee on contingent expenses be authorized to allow to the clerks attached to the Convention their mileage from Jackson to New Orleans"

Mr. Carriere moved that said resolution be referred to the committee on contingent expenses—which motion was lost.

Mr. Lewis moved the rejection of the above resolution, and called for the yeas and nays—which resulted as follows—viz:

Messrs. *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Buaton*, *Chambliss*, *Eustis*, *Garcia*, *Garrett*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mayo*, *Mazureau*, *Peets*, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Stephens*, *Taylor*, of St. Landry, *Trist*, and *Waddill*, voted for the rejection—32 yeas, and

Messrs. *Aubert*, *Cade*, *Carriere*, *Cenas*,

Covillion, *Dunn*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Marigny*, *O'Bryan*, *Porter*, *Penn*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Taylor* of Assumption, *Voorhies*, and *Wederstrandt*, voted in the negative—26 nays; the resolution was consequently rejected.

Mr. Downs enquired why it was that reports of the debates of the sittings of the Convention at New Orleans had not yet been published by the printer to the Convention.

The secretary in answer stated, that both reporters declared that the reports of the debates were up to time—that the reports up to Friday had been delivered to the printer of the Convention, and the others had not been delivered to him, because he had not as yet published those in hand.

Mr. Humble moved that Mr. Porche be excused from attending in the Convention owing to illness; his motion was granted,

ORDER OF THE DAY.

ARTICLE SECOND, AS REPOTRED BY THE COMMITTEE.

"Section 4. No person shall be a representative who, at the time of his election, is not a free white male citizen of the United States, and hath not attained the age of twenty-one years, and resided in in the State four years, next preceding his election, and the last year thereof in the Parish for which he may be chosen, provided that in case he be a naturalized citizen, the time of his residence in the State, shall be computed from the time of his naturalization."

Mr. Lewis moved the adoption of the above section 4th, article 2d, as amended.

Mr. Marigny moved the rejection of said section 4th, article 2d, as amended.

Mr. Culbertson having voted in the majority gave notice that he would on Saturday next move the reconsideration of the vote on the proviso of Mr. Voorhies to said 4th section, article 2d.

On motion, of Mr. Ledoux the Convention adjourned till to-morrow, at 11 o'clock, A. M.

Note.—Members absent Messrs. Porche on leave on account of illness, and Wikoff.

Thursday, January 23, 1845.

The Convention met pursuant to adjournment, and the proceedings were opened with prayer from the Rev. Mr. Hinton.

Mr. Wadsworth, in compliance with notice, moved the re-consideration of the vote given to fill the blank in section 3d and article 2d, with the month of "November," and called for the yeas and nays, which resulted as follows:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Derbes*, *Dunn*, *Eustis*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Taylor* of St. Landry, *Trist*, and *Wadsworth* voted in the affirmative—27 yeas.

Messrs. *Bourg*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRea*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder*, voted in the negative—37 nays; the motion was therefore lost.

Mr. Wadsworth moved that a committee of five be appointed to enquire of the printer to the Convention, why it is that the reports of the debates of the Convention have not been printed according to contract, which motion having been adopted—

The President appointed Messrs. Wadsworth, Lewis, Claiborne and O'Bryan, members of that committee.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

Sec. 4. "No person shall be a representative who, at the time of his election is not a free white male citizen of the United States, and hath not attained the age of twenty one years, and resided in the State four years next preceding his election, and the last year thereof in the parish for which he may be chosen. Provided; that in case he be a naturalized citizen, the time of his residence in the State, shall be computed from the time of his naturalization."

Mr. Lewis moved the adoption of the above section fourth, article second, as amended, and called for the yeas and nays.

Mr. Taylor of Assumption, moved that the adoption of the said section fourth, article second, as amended, be postponed until the Convention shall have determined the quali-

fications of electors, and called for the yeas and nays; and

Messrs. *Aubert*, *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Conrad* of New Orleans, *Culbertson*, *Derbes*, *Garrett*, *Kenner*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Taylor* of Assumption, *Voorhies*, *Wadsworth*, and *Winchester* voted in the affirmative; 18 yeas.

Messrs. *Beatty*, *Boudousquie*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Claiborne*, *Conrad* of Jefferson, *Covillion*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott*, of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Waddill*, *Wederstrand*, and *Winder*, voted against the motion—55 nays; consequently the same was lost.

Mr. Lewis then renewed his motion for the adoption, and the yeas and nays resulted as follows:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Derbes*, *Dunn*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Winchester*, and *Winder*, voted for the adoption—37 yeas.

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Chambliss*, *Culbertson*, *Downs*, *Eustis*, *Garcia*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan* *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulè*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill*, and *Wederstrandt*, voted against the adoption—36 nays; and the president voting with the minority, made the division equal, consequently the motion was not adopted.

On motion of Mr. Grymes for the adjournment of the Convention till to-morrow at 11 o'clock A. M., the yeas and nays being called,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Kenner*, *Labauve*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff*, *Read*, *Roman*, *Roselius* *St. Amand*, *Scott* of Baton Rouge, *Scott* of Madison, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Wadsworth*, *Wederstrandt*, and *Winchester*, voted in favor of the adjournment—43 yeas; and

Messrs. *Bourg*, *Brazeale*, *Brent*, *Carriere*, *Chambliss*, *Chinn*, *Derbes*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Legendre*, *Lewis*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Preston*, *Scott* of Feliciana, *Sellers*, *Taylor* of St. Landry, *Trist*, *Waddill*, and *Winder*, voting against the adjournment—26 nays; consequently the motion prevailed, and the Convention adjourned till to-morrow at 11 o'clock a. m.

Note.—Members absent, Messrs. Wikoff, and Porche on leave.

Friday, 24th January, 1845.

The Convention met pursuant to adjournment, and its proceedings were opened by prayer, from the Rev. Mr. Warren.

Mr. Dunn moved that the claim of Mr. Robert Perry, for furnishing awnings to the Convention while at Jackson, and for the transportation of furniture from Jackson to New Orleans, be referred to the committee on contingent expenses; his motion was adopted.

Mr. Wederstrandt offered the following resolution, which was read and adopted:

"*Resolved*, That the serjeant at arms be directed to remove the bar in the rear of the hall, so that members may have space to pass around from one to the other side of the hall."

Mr. Splane moved that a committee of three be appointed, to contract with two newspapers of the city, to give a synopsis of the debates, questions, their decisions, and the yeas and nays thereon, of the Convention.

Mr. Guion moved to lay the same on the table, subject to call, and his motion prevailed.

Mr. Guion gave notice that he would introduce a rule to permit any member of

the Convention to move for the re-consideration of a question on which a division was equal.

ORDER OF THE DAY.

ARTICLE SECOND OF THE CONSTITUTION OF 1812.

SEC. 5. Elections for representatives for the several counties entitled to representation, shall be held at the places of holding their respective courts, or in the several election precincts, into which the legislature may think proper, from time to time, to divide any or all of those counties.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 5. Election for representatives for the several parishes, or representative districts, entitled to representation, shall be held at the several election precincts established by law, and which the legislature, having in view the convenience of the voters, may from time to time establish; provided, that the legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

On motion of Mr. DOWNS, the fifth section of article second, as reported by the committee, was adopted.

Mr. BRENT moved to lay on the table, subject to call, the sixth and seventh sections of article second, as reported by the committee, and that the Convention proceed to the consideration of the eighth section of said article; his motion prevailed.

ARTICLE SECOND, AS REPORTED.

SEC. 8. In all elections for representatives, every free white male citizen of the United States who, at the time being, hath attained the age of twenty-one years, and resided in the State two years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. Electors shall in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, or going to, or returning from elections.

Mr. MAYO offered, as a substitute to the above section, the eighth section of the same article, as reported by the minority, with an additional proviso, viz:

ARTICLE SECOND, AS REPORTED BY THE MINORITY.

SEC. 8. Every free white male citizen of the United States, of the age of twenty-one years, or upwards, who shall have resided in this State one year next preceding the election, and the last six months thereof in the parish or district in which he offers to vote, shall be deemed a qualified elector, and be entitled to vote in the parish or district where he actually resides, for each and every officer made elective by the people, under this State or the United States. Provided, that no person in the military, naval or marine service of the United States shall be considered a resident in this State, by being stationed in any garrison, barracks, or military or naval place or station within the State; and no person under interdiction, or person convicted for any crime punishable by imprisonment in the penitentiary, unless pardoned or restored by law, to the rights of suffrage, shall enjoy the right of an elector. Electors shall in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, and returning from the polls.

Mr. GRYMES moved to amend the substitute by striking out the proviso; his motion was lost.

Mr. BOUDOUSQUIE then moved to lay the substitute indefinately on the table, and called for the yeas and nays; and

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wederstrandt*, *Winchester* and *Winder*, voted in favor of the motion—40 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Downs*, *Eustis*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Madison, *Soulè*, *Splane* and *Waddill*, voted against the motion—28 nays; consequently the same was carried.

Mr. VOORHIES moved to amend the said eighth section, article second, by inserting the word "*consecutive*" after the words "resided in the State two," which amendment was adopted.

Mr. GARRETT moved to strike out from said section eighth, article second, the words, "*State two years next preceding the election, and the last year thereof in the parish in which he offers to vote,*" and insert, in lieu thereof, the words, "*parish in which he offers to vote, one year next preceeding the election.*"

Mr. GRYMES moved for a division, that is, the Convention shall first proceed to strike out, and called for the yeas and nays.

On motion of Mr. RATLIFF, to adjourn the Convention, till Monday next at 11 o'clock, a. m., the yeas and nays being called, resulted as follows:

Messrs. *Auburt, Cenas, Claiborne, Conrad* of Jefferson, *Culbertson, Dunn, Grymes, King, Labauve, Marigny, Mazureau, Ratliff, Read, Roman, Roselius, St. Amand, Scott* of Baton Rouge, and *Winchester* voted in the affirmative—18 yeas; and

Messrs. *Beatty, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Derbes, Downs, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Ledoux, Legendre, Leonard, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Pugh, Saunders, Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulè, Splane, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies, Waddill, Wadsworth, Wederstrandt* and *Winder*, voted in the negative—51 nays: the motion was consequently lost.

On motion the Convention adjourned, till to-morrow at 11 o'clock, a. m.

NOTE.—Members absent, Messrs. Kenner, Porche on leave, and Wikoff.

SATURDAY, January 25, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

The PRESIDENT submitted to the Convention, the following letter from Messrs. J. M. W. Picton, L. Mathews, and Charles Harrod, members of the Committee on Public Schools of Municipality No. 2, viz:

Public Schools of Municipality No. 2.

NEW ORLEANS, 24th January, 1845.

Gentlemen: You are respectfully invited to attend the annual examination of the public schools of Municipality No. 2.

The examination of the primary departments will take place on Monday, 27th instant, commencing at 9 A. M.

The intermediate departments and "High School" on Tuesday and Wednesday, 28th and 29th instant, commencing at 9 A. M.

On the above mentioned days the examination will take place in the respective school rooms, and on Thursday the 30th, the pupils of the schools will be assembled in the church on Lafayette square, at half past 10 A. M., to engage in the exercise of declamation, composition, and vocal music:

By order of the Board:

(Signed) J. M. W. PICTON, L. MATHEWS, CHARLES HARROD, } Com.

In compliance with notice, Mr. GUION submitted for the consideration of the Convention the following rule, and the same was adopted:

"On giving two days' notice of the time for the reconsideration of a decision on a provision of the constitution whether the decision shall have been by a majority or by an equal division, any member of the Convention shall have the right to move for the reconsideration, no matter on which side his vote may have been cast."

Mr. WADSWORTH, chairman of the committee to whom was referred the question relative to the reporter and printer of the Convention, submitted the following resolution, viz:

The committee to whom was referred the question relative to the reporter and printer of the Convention, submit the following resolution:

"*Resolved*, That an additional reporter, "in English, be appointed, and a city pa- "per be contracted with, under the superin- "tendance of a committee appointed by the "president of the Convention, to furnish five "copies of its paper to each member of the "Convention, containing the debates and "proceedings of this body."

Mr. BRENT offerred to the above the following substitute, viz:

Whereas, it is evident, that from some cause or other, the printer who has been elected by this Convention is unable to discharge properly the duties incumbent on him, and whereas, he has so far entirely failed to furnish us with three numbers of his paper per week according to agreement, Therefore be it

Resolved, That J. A. Kelly be discharged from his office of printer to this Convention, and that he be paid for such services as he has performed, and that the committee on contingent expenses be instructed to audit and settle his accounts, and make report thereof to the Convention.

Resolved, That we proceed to the election of a printer, whose compensation shall be the same as were awarded to Mr. Kelly.

Mr. TAYLOR of Assumption, moved to recommit the report to the special committee, with instructions to report what contract or contracts have been entered into with the printer to the Convention, and in what manner he has performed his contract or contracts, and called for the ayes and nays, which resulted as follows;

Messrs. Beatty, Boudousquie, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Grymes, Garrett, Guion, Hudspeth, King, Legendre, Lewis, McCallop, Mazureau, O'Bryan, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Roselius, Saunders, Scott of Feliciana, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—forty yeas; and

Messrs. Brazeale, Brent, Cade, Carriere, Covillion, Downs, Humble, Hynson, Ledoux, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, and Voorhies voted in the negative—seventeen nays; the motion was therefore carried.

Mr. PEETS offered the following resolution which was read and adopted:

"*Resolved*, That the door keeper be instructed to prepare suitable seats on the right hand side of the bar, for the special accommodation of the ladies, who may wish to attend the deliberations of the Convention."

Mr. PEETS offered the following resolution, which was read and adopted:

"*Resolved*, That the special committee appointed to examine into the causes of the printer of this Convention having failed to comply with his contract, be instructed to report on Monday next."

On motion, leave of absence was granted to Messrs. Aubert, Dunn, Scott of Baton Rouge, Labauve, and Read.

On motion, the Convention adjourned till Monday next, at 11 o'clock A. M.

NOTE.—Members absent, Messrs. Aubert on leave—Dunn on leave, on account of affliction in his family—Kenner, Leonard, Labauve, on leave—Porche on leave—Read on leave—St. Amand, Scott of Baton Rouge, on leave—Scott of Madison, Soulé and Trist.

MONDAY, January 27, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. TWITCHARD opened the proceedings by prayer.

Mr. WADSWORTH, chairman of the committee to whom was referred the resolution in relation to the printer and reporter of the Convention, made the following report, viz., and moved the adoption:

The committee to whom was referred the resolution in relation to the printer and reporter of the Convention, and who were charged to enquire into the contract made with said printer, and whether he had complied with the same, respectfully report—

That the only contract made with said printer is to be found in a resolution adopted by the Convention on the 10th of August, 1844, and the bond executed by said printer on the 14th of August, 1844; a copy of said resolution and said bond are hereto annexed as part of this report.

Your committee further report that James A. Kelly, printer of the Convention, has failed to comply with the terms of his contract, in this, that he has not furnished the members of the Convention with ten copies each of his paper, called the Louisiana Reporter, three times a week—and further, that he has not printed and published the reports of the debates of the Convention of Saturday 18th, and Monday 20th instant, though they were furnished to him (with the exception of a small portion of Monday's debates,) on Monday, the 20th inst.

Your committee therefore recommend the adoption of the following resolutions:

Resolved, That JAMES A. KELLY be dismissed from the appointment of printer to the Convention, and that the Convention do proceed forthwith to the election of another printer to the Convention, whose compensation shall be at the same rate as those heretofore awarded to said J. A. Kelly.

Resolved, That the committee on contingent expenses be instructed to adjust the accounts of said James A. Kelly for print-

ing done by him, and to report the same to the Convention.

STATE OF LOUISIANA, } (Bond.)
Parish of Feliciana. }

Know all men by these presents, that I, James A. Kelly, as principal, and ——— as security, do acknowledge ourselves to be jointly and severally indebted unto A. Mouton, governor of the State of Louisiana, or his successors in office, in the sum of one thousand dollars, lawful money of the United States, the payment whereof, well and truly to be made unto the said governor, or his successors in office, we, and each of us, bind ourselves firmly, jointly and severally by these presents, dated this 14th day of August, 1844.

The condition of the above bond is such that whereas, the Convention now sitting in the town of Jackson, to revise, alter, or amend the constitution of Louisiana, did on the 10th inst., by resolution, order the subscription to seven hundred and seventy-seven copies to the Louisiana Reporter, at the aggregate price of fifteen hundred dollars —to be furnished to the members of said Convention until the whole proceedings and debates thereof shall be published—and whereas the said Convention, by a resolution adopted on the 12th inst., ordered that the sum of one thousand dollars be advanced to the said J. A. Kelly, (being the proprietor of said paper) on account of said subscription, on condition that he should give bond and security to the satisfaction of the president of the Convention for the faithful performance of his duties.

Now, therefore, if the above bound J. A. Kelly shall well and truly perform his duties, and fulfil the engagements to publish in French and English, the journal and debates of the Convention, three times per week, and furnish each member thereof with ten copies of each number of said paper, in French and English, at the rate of three times per week, according to the true intent and meaning of said resolution, or in default thereof pay all such damages and costs as may be sustained by reason of said failure, and return unto the treasury of the State of Louisiana, the said sum of one thousand dollars.—Then this obligation to be null and void, or else remain in full force and virtue in law.

(Signed) J. A. KELLY,
GEO. HENDERSON.

HORATIO DAVIS, } Witnesses.
JAS. CARPENTER, }

Bond approved, Jackson, La., August 14, 1844. (Signed)

JOSEPH WALKER,
President of the Convention of the State of Louisiana.

[Resolution adopted Aug. 10, 1844.]

Resolved, That the journal and debates of the Convention be printed by the printer of the Convention in the form directed by the rules, in English and French, separately, at least three times a week, and oftener if it be necessary to keep up with the proceedings of the Convention, and that each member of the Convention be furnished with ten copies of the journals and debates for distribution among his constituents, each member to select copies in either language be amended by saying "ten copies of the paper," instead of "the journals;" said amendment was adopted, and the resolution was adopted as amended.

Mr. GARRETT moved that the adoption of the report and resolutions be postponed until Thursday next, and called for the ayes and nays; and

Messrs. Bourg, Briant, Brumfield, Burton, Chinn, Claiborne, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Lewis, Pugh, Ratliff, Roman, St. Amand, Saunders, Scott of Madison, Sellers, Taylor of St. Landry, Waddill and Wederstrandt voted in the affirmative, twenty-six ayes; and

Messrs. Brazeale, Brent, Cade, Carriere, Cènas, Chambliss, Covillion, Downs, Humble, Hynson, Legendre, Leonard, McCallop, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Soulè, Splane, Stephens, Taylor of Assumption, Trist, Voorhies and Wikoff voted in the negative, thirty-seven nays; consequently the motion was lost.

Mr. DOWNS moved for a division, that is, the Convention first proceed to the adoption of report; his motion prevailed. He then called for the yeas and nays on the adoption of the report, and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Cénas, Chambliss, Covillion, Culbertson, Downs, Garcia, Humble, Hynson, Kenner, Legendre, Leonard, Lew-

is, McCallop, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roman, Roselius, Scott of Baton Rouge, Scott of Feliciana, Soulé, Splane, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth and Wikoff voted for the adoption—forty-three yeas; and

Messrs. Bourg, Briant, Brumfield, Chinn, Derbes, Dunn, Garrett, Guion, Hudspeth, King, Ratliff, St. Amand, Saunders, Scott of Madison, Sellers, Stephens, Taylor of St. Landry,and Wederstrandt voted against the adoption—eighteen nays; consequently the same was adopted.

Mr. Downs moved to amend the first resolution by inserting "two" printers, one to print in English and one to print in French.

Mr. Beatty offered the following proviso to the first resolution:

"*Provided*, That each of said gazettes so chosen, shall receive five hundred dollars only for ten copies of their paper, to be furnished to each member of the Convention three times a week at least, during the sittings of the Convention.

And the yeas and nays being called for on the amendment and proviso, resulted as follows:

Messrs. Beatty, Brazeale, Brent, Brumfield, Carriere,Chambliss, Covillion,Downs, Eustis, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulè, Splane, Trist, Waddill, Wederstrandt and Wikoff voted in the affirmative—thirty-eight yeas; and

Messrs. Benjamin, Briant, Burton, Cade, Cènas, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Legendre, Lewis, Mazureau, Pugh, Ratliff, Roman, St. Amand, Saunders, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies and Wadsworth voted in the negative—twenty-nine nays; the motion was carried.

Mr. Ratliff moved that the whole matter under consideration be laid on the table subject to call, and called for the yeas and nays; and

Messrs. Barton, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, King, Pugh, Ratliff, Roman, St. Amand, Saunders, Scott of Madison, Taylor of St. Landry, and Wederstrandt voted in favor of the motion—eighteen yeas; and

Messrs. Beatty, Benjamin, Brazeale, Brent, Briant, Brumfield, Cade, Carriere, Cénas, Chambliss, Conrad of Orleans, Covillion, Downs, Eustis, Grymes, Humble, Hynson, Ledoux, Legendre, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth and Wikoff voted against the motion—forty-seven nays; the motion was lost.

Mr. Downs moved for the adoption of the first resolution as amended.

Mr. Kenner moved for a division, that is, the Convention first proceed on the first part of the resolution dismissing the printer, his motion prevailed; he then called for the yeas and nays on the adoption of the first part of the first resolution, dismissing the printer, which resulted as follows:

[Previous to the question being taken, Mr. King, with leave, read a certificate signed by six of the hands employed by Mr. Kelly, in the office of the Louisiana Reporter.]

Messrs. *Beatty*, *Benjamin*, *Brazeale*, *Brent*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Conrad* of New Orleans, *Covillion*, *Downs*, *Eustis*, *Garcia*, *Humble*, *Hynson*, *Ledoux*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mazureau*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Read*, *Roselius*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Soulé*, *Splane*, *Taylor*, of Assumption, *Voorhies*, *Waddill*, *Wadsworth* and *Wikoff*, voted in the affirmative—45 yeas; and

Messrs. *Briant*, *Brumfield*, *Burton*, *Chinn*, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Scott* of Madison, *Taylor* of St. Landry, *Wederstrandt* and *Winchester*, voted in the negative—23 nays; the motion was carried.

Mr. Ratliff offered the following resolution:

Resolved, That a committee of five be

appointed by the president, whose duty it shall be to enquire and ascertain of the various printing presses of this city, what will be the cost to furnish ten copies of their daily paper, containing the proceedings of the Convention, as fast as furnished them by the reporter, and that said committee be instructed to obtain the cost of printing, in book-form, well bound, the whole of the proceedings of this Convention, and *all such* other facts in relation to the printing of this Convention as to them may be deemed necessary, and report the result of their labors as early as practicable.

Mr. BEATTY moved for the previous question, and called for the yeas and nays. The president put the question, shall the previous question be put? And

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Cade*, *Carriere*, *Chambliss*, *Cenas*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Downs*, *Eustis*, *Garcia*, *Grymes*, *Humble*, *Hynson*, *Legendre*, *Leonard*, *McCallop*, *McRae*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Read*, *Roman*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Soulè*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill*, *Wadsworth* and *Wikoff*, voted in the affirmative—49 yeas; and

Messrs. *Burton*, *Chinn*, *Culbertson*, *Derbes*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Lewis*, *Pugh*, *Ratliff*, *Roselius*, *St. Amand*, *Scott* of Madison, *Taylor* of St. Landry, *Wederstrandt* and *Winchester* voted in the negative—19 nays; consequently the motion was carried.

On motion of Mr. DOWNS, the latter part of the first resolution, as amended, was adopted.

On motion of Mr. LEWIS, the second resolution was adopted.

Mr. BRENT moved that the Convention proceed to the election of French Printer.

Mr. CULBERTSON moved to amend the above resolution, "that the Convention proceed to the election of both of the printers, the French and English, at the same time, which motion was adopted.

Mr. DOWNS moved for a division, that is, that the Convention proceed to the election of each printer separately, and his motion prevailed.

The Convention then proceeded to the election of the French printer.

Seventy members present.

Mr. CENAS nominated Jerome Bayon.

Mr. CHINN nominated Mr. Magne.

On motion, the president appointed Messrs. Culbertson and Downs tellers.

On counting the votes, it appeared that

Jerome Bayon obtained	40 votes.
Messrs. Magne & Weise,	29
Blank,	1
	70 votes.

Mr. Jerome Bayon having obtained 40 votes, was proclaimed by the president duly elected printer in French to the Convention.

On motion of Mr. GUION, the Convention proceeded to the election of the printer in English, and nominated Mr. McCardle.

Mr. READ nominated Besançon, Ferguson & Co.

Seventy members present.

The PRESIDENT appointed the same tellers.

On counting the votes, it appeared that

Messrs. Besançon, Ferguson & Co. obtained,	36 votes.
M'Cardle,	31
Magne,	1
Blank,	2
	70 votes.

Messrs. Besançon, Ferguson & Co., having obtained 36 votes, were proclaimed by the president duly elected printers in English to the Convention.

Mr. DOWNS offered the following resolution, and the yeas and nays were called for:

Resolved, That the Convention now proceed to elect an additional reporter in English, to act with the present reporter, so as to ensure an easy publication of the proceedings.

Messrs. *Benjamin*, *Brent*, *Cenas*, *Downs*, *Dunn*, *Eustis*, *Humble*, *Ledoux*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Penn*, *Roselius*, *Saunders*, *Scott* of Baton Rouge, *Splane*, *Taylor* of Assumption and *Voorhies* voted in the affirmative—18 yeas;

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Briant*, *Brumfield*, *Burton* *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*,

Legendre, *Leonard*, *Marigny*, *Mazureau*, *O'Bryan*, *Porter*, *Prescott* of Avoyelles, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roman*, *St. Amand*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Waddill*, *Wederstrandt* and *Winchester*, voting in the negative—46 nays, the motion was lost.

On motion of Mr. GUION, leave of absence was granted to Mr. WINDER.

The president submitted to the Convention a letter from Mr. J. A. Kelly, asking for a copy of the proceedings of the Convention, relating to him, and the same was read.

On motion, the Convention adjourned till to-morrow at 11 o'clock a. m.

NOTE.—Members absent, Messrs. Aubert on leave, Boudousquie, Labauve on leave, and Porche on leave.

TUESDAY, January 28, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. BEADLE opened the proceedings by prayer.

Mr. RATLIFF, chairman of the committee on contingent expenses, presented the following resolution:

"*Resolved*, That the sum of seventy-six dollars and thirty-three cents be allowed Robert Perry, in full, for the transporting of the furniture of the Convention, at Jackson, to the Mississippi river, after the adjournment at that place, and for the ballance of his account for furnishing an awning for the use of the Convention at Jackson."

On motion of Mr. SAUNDERS, the said resolution was adopted.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 8 "In all elections for representatives, every free white male citizen of the United States who, at the time being, hath attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting; electors shall in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, or going to or returning from elections."

Mr. GARRETT moved to "strike" out from said eighth section, article second, the words "*State two years next preceding the election, and the last year thereof in the Parish in which he offers to vote*," and insert in lieu thereof the words "*parish in which he offers to vote, one year next preceding the election.*"

Mr. GUION moved a division, that is, the Convention first proceed to "strike out;" his motion prevailed for the division, and pending the discussion the Convention adjourned till to-morrow at 11 o'clock, a. m.

NOTE.—Members absent, Messrs. Aubert on leave, Labauve on leave, Porche on leave, and Winder on leave.

WEDNESDAY, January 29, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. BEATTY opened the proceedings by prayer.

On motion, leave of absence was granted to Messrs. Penn and Saunders.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 8. "In all elections for representatives, every free white male citizen of the United States who, at the time being, hath attained the age of twenty-one years, and resided in the State two consecutive years, next preceeding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting; electors shall in all cases exceept treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, or going to or returning from elections."

The Convention resumed the debate on the question to "strike out" from said eighth section, article second, the words "*State two years next preceding the election, and the last year thereof in the Parish in which he offers to vote.*"

And pending the discussion the Convention adjourned till to-morrow at 11o'clock, a. m.

NOTE.—Members absent, Messrs. Aubert, Penn, Porche, Saunders and Winder, all absent on leave.

THURSDAY, January 30, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings by prayer.

On motion of Mr. SCOTT of Baton

Rouge, leave of absence was granted to Mr. McCallop.

The President submitted to the Convention a letter of invitation from Mr. M. M. Cohen, president of the People's Lyceum, and the same, after being read, was accepted.

Mr. Dunn moved that the invitation of the committee of the Public Schools of Municipality No. 2, be accepted; his motion prevailed.

Mr. Roselius moved that the Convention attend, in a body, the examination of the said Public Schools, and the yeas and nays being called for, resulted as follows:

Messrs. *Benjamin, Bourg, Briant, Burton, Cenas, Chinn, Claiborne, Culbertson, Dunn, Hynson, Kenner, King, Labauve, Leonard, Marigny, Mayo, Mazureau, Prescott* of Avoyelles, *Prescott* of St Landry, *Preston, Ratliff, Roselius, Splane, Trist, Waddill* and *Wederstrandt* voted in the affirmative—27 ayes; and

Messrs. *Beatty, Brazeale, Brent, Brumfield, Cade, Carriere, Chambliss, Covillion, Derbes, Eustis, Grymes, Garrett, Guion, Hudspeth, Humble, Lewis, McRae, O'Bryan, Porter, Prudhomme, Pugh, Read, Roman, St. Amand, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies, Wikoff* and *Winder* voted in the negative—34 nays; consequently the motion was lost.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

Sec. 8. In all elections for representatives, every free white male citizen of the United States who, at the time being, hath attained the age of twenty-one years, and resided in the State two years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. Electors shall in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, or going to, or returning from elections.

The question under consideration was the motion to strike out the words "State two years, and the last year thereof in the parish in which he offers to vote."

And pending the discussion,

Mr. Burton offered the following substitute, viz:

"In all elections for representatives, every free white male citizen of the United States, who, at the time being hath attained the age of twenty-one years, and resided in the parish or district in which he offers to vote, the last year next preceding the election, shall have the right of an elector.—Electors shall in all cases, except treason, felony, breach or surety of peace, be privileged from arrest during their attendance at, going to, or returning from elections."

Mr. Kenner moved for the previous question.

The President then put the question, shall the main question be now put; the yeas and nays being called for, resulted as follows:

Messrs. *Benjamin, Boudousquie, Bourg, Brazeale, Carriere, Cenas, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh, Ratliff, Roman, Roselius, St. Amand, Scott* of Feliciana, *Sellers, Soulè, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Wikoff, Winchester and Winder* voted in the affirmative—42 yeas; and

Messrs. *Beatty, Brent, Brumfield, Burton, Cade, Chambliss, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard, McRae, Mayo, O'Bryan, Peets, Porter, Preston, Read, Scott* of Baton Rouge, *Splane, Waddill* and *Wederstrandt* voted against the motion—24 nays; the motion was carried.

On the motion to strike out the words "State two years, and the last year thereof in the parish in which he offers to vote," the yeas and nays being called, resulted as follows:

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard, McRae, Mayo, O'Bryan, Peets, Porter, Preston, Read, Sellers, Splane, Waddill* and *Wederstrandt* voted in favor of the motion—23 yeas; and

Messrs. *Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Carriere, Cenas, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau,*

Prescott of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soulè*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Wikoff*, *Winchester* and *Winder* voted against the motion—44 nays; the same was lost.

Mr. KENNER offered the following proviso to the said 8th section, of article 2d:

Provided, that no person shall be permitted to vote who is of unsound mind, or who has been convicted of any felony or of any infamous crime; and provided, also, that each citizen shall vote only in the parish in which he resides, and if he lives in the cities of New-Orleans and Lafayette, he shall vote only in the ward in which he resides.

On motion the Convention adjourned, till to-morrow at 11 o'clock, a. m.

NOTE.—Members absent, Messrs. Aubert, McCallop, Penn, Porche and Saunders; all absent on leave.

FRIDAY, January 31, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. RANNEY opened the proceedings by prayer.

On motion of Mr. WEDERSTRANDT, leave of absence was granted Mr. Ratliff.

Mr. SELLERS obtained leave to change his vote given on yesterday on the previous question.

ORDER OF THE DAY.

ARTICLE SECOND.

SEC. 8. In all elections for representatives, every free white male citizen of the United States who, at the time being, hath attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. Electors shall in all cases, except treason, felony, breach or surety of peace, be privileged from arrest during their attendance at, or going to, or returning from elections.

On motion of Mr. DOWNS, the above 8th section of article 2d was adopted.

Mr. ROMAN offered the following additional section, viz:

"It shall be the duty of the general assembly to provide by law for the registration, at least three months before every general election, of all the qualified voters of the State, in the several parishes in which they actually reside. No person shall be entitled to vote except in the parish of his residence, and if the parish is divided into election precincts or wards, in the election precinct or ward where he resides, and except his name shall have been recorded in the last registry made previous to the election."

On motion of Mr. DOWNS, said section was ordered to be printed and made the order of the day for Wednesday next.

Mr. CLAIBORNE offered the following as the 9th section, viz:

SEC. 9. In all cases where persons offering to vote shall be naturalized citizens, the residence of two years in the State, required by the preceding section, shall commence from or after the date of their naturalization.

On motion of Mr. GUION said section was ordered to be printed and made the order of the day for Wednesday next.

Mr. Taylor of Assumption, submitted th following section, viz:

"Absence from the State shall interrupt the residence in the preceding section, unless the person absenting himself shall be a house keeper, and his dwelling house shall be actively and exclusively occupied during his absence by his family, or some portion thereof."

On motion of Mr. TAYLOR of Assumption, the same was ordered to be printed and laid on the table subject to call.

On motion of Mr. BENJAMIN the 4th section of article 2d, as reported by the committee, was called up.

ARTICLE SECOND.

SEC. 4. No person shall be a representative who, at the time of his election, is not a free white male citizen of the United States, and hath not attained the age of twenty-one years, and resided in the State two years next preceding his election, and the last year thereof in the parish for which he may be chosen.

On motion of Mr. SCOTT of Baton Rouge, said 4th section of article 2d was laid on table, subject to call.

Mr. CLAIBORNE moved to add "until the right of suffrage be disposed of," and his motion prevailed.

On motion of Mr. SCOTT of Feliciana, the 7th section of article 2d, as reported by the committee, was called up.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 7. The house of representatives shall choose its speaker and other officers.

On motion of Mr. Scott of Feliciana, said 7th section was adopted.

On motion of Mr. LEWIS the Convention took up the 6th section of article 2d, as reported by the committee.

ARTICLE SECOND.

SEC. 6. Representations shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation adopted in the constitution of the United States. The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

	Members.
The parish of Plaquemines shall have one member,	1
The parish of St. Bernard,	1
" Orleans—	
First Municipality, 5	
Second do 4 } 12	
Third do 3	
That part of the parish of Orleans on the east bank of the river Mississippi,	1
The parish of Jefferson,	2
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	1
" Assumption,	2
" Lafourche Interior,	3
" Terrebonne,	1
" Iberville,	1
" West Baton Rouge,	1
" East " "	2
" West Feliciana,	2
" East "	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Pointe Coupée,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	1
" St. Martin,	2
The parish of St. Landry,	4
" Vermillion,	1
" Lafayette,	1
" Calcassieu,	1
" Avoyelles,	2
" Rapides,	2
" Natchitoches,	2
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Caldwell,	1
" Catahoula,	1
" Claiborne,	1
" Bossier,	1
Total,	72

As soon as may be after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned according to the principles of this section, so as not to be less than seventy nor more than one hundred, and whenever a new parish shall be created, a seperate representation shall at the same time be provided for it, which shall continue until the next decimal apportionment.

Mr. MARIGNY moved to strike out and including the words, "*the first representation under this constitution,*" to the end of the section. Pending the discussion on this motion,

Mr. BENJAMIN moved to refer the said section 6th of article 2d, to a committee of twelve, composed of three members from each congressional district; and pending the discussion,

Mr. DUNN moved that the Convention adjourn till Monday next at 11 o'clock A. M., and the yeas and nays being called for, resulted as follows:

Messrs. Bourg, Chinn, Downs, Dunn, Grymes, Garrett, Guion, Leonard, Mayo, Pugh, Read, St. Amand, Scott of Baton Rouge, Taylor of Assumption, Trist, Voorhies and Waddill voted in favor of the adjournment—17 yeas; and

Messrs. Benjamin, Boudousquie, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Derbes, Eustis, Hudspeth, Humble, Hynson, King,

Labauve, Ledoux, Legendre, Lewis, McRae, Marigny, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Roman, Roselius, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of St. Landry, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted against the adjournment—48 nays; the motion was lost.

Mr. Downs then moved that the Convention adjourn till to-morrow at 11 o'clock A. M., and the yeas and nays being called for,

Messrs. Benjamin, Bourg, Brent, Burton, Cade, Carriere, Cénas, Chambliss, Conrad of Jefferson, Covillion, Culbertson, Downs, Dunn, Garrett, Guion, Humble, Legendre, Leonard, McRae, Marigny, Mayo, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff and Winder voted in the affirmative—42 yeas; and

Messrs. Boudousquie, Brazeale, Briant, Derbes, Hudspeth, Hynson, King, Labauve, Lewis, Marigny, Peets, Roman, Splane, Taylor of St. Landry, and Winchester voted in the negative—15 nays; consequently the motion was carried.

Note.—Members absent, Messrs. Aubert, McCallop, Penn, Porche, Ratliff and Saunders, all absent on leave.

Saturday, February 1, 1845.

Mr. Downs called the Convention to order at the hour appointed for the meeting at the last adjournment; he informed the Convention that the president, Mr. Walker, was very ill, and unable to attend.

Mr. Scott of Baton Rouge, moved that Mr. Chinn be calleed to the chair, and that he preside throughout the day.

The Rev. Mr. Nicholson opened the proceedings by prayer.

On motion, leave of absence was granted to Messrs. Bourg, Waddill, Pugh and Guion.

On motion of Mr. Dunn the chairman *pro tempore* was authorised to sign the warrants on the treasury of State for the pay of the members, &c.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

Sec. 6. "Representation shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

The first representation under this constitution shall continue until after the next United States census, in 1850, and shall be as follows:

The parish of Plaquemines shall have one member;		1
The parish St. Bernard,		1
" Orleans,		
First Municipality	5	12
Second "	4	
Third "	3	
The Parish of Orleans, on the east bank of the river Mississippi,		1
The parish of Jefferson,		2
" St. Charles,		1
" St. John the Baptist,		1
" St. James,		2
" Ascension,		1
" Assumption,		2
" Lafourche Interior,		3
" Terrebonne,		1
" Iberville,		1
" West Baton Rouge,		1
" East "		2
" West Feliciana,		2
" East "		1
" St. Helena,		1
The parish of Livingston,		1
" Washington,		1
" St. Tammany,		1
" Point Coupeé,		1
" Concordia,		1
" Tensas,		1
" Madison,		1
" Carroll,		1
" Franklin,		1
" St, Mary,		1
" St. Martin,		2
" Vermillion,		1
" Layfayette,		1
" St. Landry,		4
" Caleassieu,		1
" Avoyelles,		2
" Rapides,		2
" Natchitoches,		2

Parish of	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
Total,		72

As soon as may be after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned according to the principles of this section, so as not to be less than seventy, nor more than one hundred; and whenever a new parish shall be created a separate representation shall at the same time be provided for it, which shall continue until the next decimal opportunity."

And pending the discussion on the motion of Mr. BENJAMIN, to refer the said section to a special committee of twelve, composed of the members from each of the congressional districts, the Convention adjourn till Monday next, at 11 o'clock a. m.

NOTE.—Members absent, Messrs. Boudousquie, Bourg on leave, Kenner, McCallop on leave, Penn on leave, Porche on leave, Pugh on leave, Ratliff on leave, Roman, St. Amand, Saunders on leave, Taylor of Assumption, Trist, Waddill on leave, and Winchester.

MONDAY, FEBRUARY 3, 1845.

The Convention met pursuant to adjournment; Mr. CHINN in the chair.

The Rev. Mr. PRESTON opened the proceedings by prayer.

On motion of Mr. SCOTT of Baton Rouge, Mr. CHINN was continued in the chair during the illness of the president of the Convention.

Mr. BRENT offered the following resolution:

"*Resolved*, That when the Convention adjourns to-day at the usual hour for dinner, that it shall adjourn to meet again at 7 o'clock p. m.; and that until further action be had, it shall continue to meet at that hour every evening, except those evenings when the use of the hall has been reserved by the proprietor, according to the contract with the Convention."

The yeas and nays being called for, resulted as follows:

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Conrad* of New Orleans, *Covillion*, *Downs*, *Garcia*, *Humble*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prudhomme*, *Preston*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Trist*, *Waddill* and *Wederstrandt*, voted in the affirmative—32 yeas; and

Messrs. *Aubert*, *Benjamin*, *Brumfield*, *Cenas*, *Claiborne*, *Conrad* of Jef., *Derbes*, *Dunn*, *Garrett*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *Mazureau*, *Porche*, *Prescott* of St. Landry, *Roman*, *Roselius*, *St. Amand*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies* and *Winder* voted in the negative—27 nays; consequently the resolution was adopted.

Mr. READ offered the following resolution:

"*Resolved*, That an additional reporter be appointed to aid in reporting the proceedings of the Convention in the English language."

Mr. BEATTY moved to amend the above resolution, by adding that an "additional reporter in French should be appointed."

Mr. CLAIBORNE moved that the resolution and amendment be laid on the table indefinitely, and called for the yeas and nays; and

Messrs. *Aubert*, *Beatty*, *Cade*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Garrett*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Leonard*, *Lewis*, *Marigny*, *Mazureau*, *Porche*, *Prescott* of Avoyelles, *Prudhomme*, *Roman*, *St. Amand*, *Sellers*, *Soulè*, *Taylor* of St. Landry and *Trist*, voted in favor of the motion—30 yeas; and

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Burton*, *Carriere*, *Cenas*, *Chambliss*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Humble*, *McCallop*, *McRea*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Read*, *Roselius*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder* voted in the negative—32 nays; the motion was lost.

Then the yeas and nays being called for on the amendment of Mr. Beatty to "appoint

an additional reporter in French," resulted as follows:

Messrs. *Aubert, Beatty, Benjamin, Brumfield, Burton, Cade, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Garcia, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Mazureau, Prescott* of St. Landry, *Roman, Roselius, St. Amand, Soulé* and *Winchester* voted in favor of the amendment; 26 yeas; and

Messrs. *Brazeale, Brent, Carriere, Cenas, Chambliss, Covillion, Downs, Dunn, Eustis, Grymes, Garrett, Humble, Hynson, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porche, Porter, Prescott* of Avoyelles, *Preston, Prudhomme, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Voorhies, Waddill, Wadsworth, Wederstrandt* and *Winder*, voted against the amendment—41 nays; the same was lost.

Then the yeas and nays were called for on the resolution of Mr. READ, to appoint an additional reporter in English, and resulted as follows:

Messrs. *Benjamin, Brazeale, Brent, Burton, Cenas, Chambliss, Downs, Dunn, Eustis, Humble, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Preston, Read, Roselius, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulè, Splane, Stephens, Taylor* of Assumption, *Trist, Waddill, Wadsworth* and *Wederstrandt*, voted in the affirmative—31 yeas; and

Messrs. *Aubert, Beatty, Brumfield, Cade, Carriere, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Garcia, Grymes, Garrett, Hudspeth, Hynson, Kenner, King, Labauve, Legendre, Leonard, Lewis, Marigny, Mazureau, O'Bryan, Porche, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prud homme, Roman, St. Amand, Sellers, Taylor* of St. Landry, *Voorhies, Winchester* and *Winder* voted in the negative—36 nays; the resolution was lost.

Mr. KENNER offered the following resolution:

Resolved, "That the office of reporter of the debates of this Convention be abolished."

Mr. COVILLION moved that said resolution be laid on the table, indefinitely, and called for yeas and nays, which resulted as follows:

Messrs. Beatty, Brent, Brumfield, Cénas, Chambliss, Claiborne, Conrad of Jefferson, Covillion, Downs, Dunn, Garcia, Garrett, Humble, Hynson, Labauve, Ledoux, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Wederstrandt and Winchester voted in the affirmative—40 yeas; and

Messrs. Aubert, Benjamin, Brazeale, Burton, Cade, Carriere, Conrad of New Orleans, Culbertson, Derbes, Kenner, King, Legendre, Mazureau, Porche, Prudhomme, Roman, St. Amand, Saunders, Scott of Madison, Voorhies, Waddill, and Winder voted in the negative—22 nays; consequently the motion was carried.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 6. Representation shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation, adopted in the constitution of the United States.

The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

The parish of Plaquemines shall have one member,		1
The parish of St. Bernard,		1
" Orleans,—		
First Municipality,	5	12
Second do,	4	
Third do,	3	
That part of the parish of Orleans on the east bank of the river Mississippi,		1
The parish of Jefferson,		2
" St. Charles		1
" St. John the Baptiste,		1
" St. James,		2
" Ascension,		1
" Assumption,		2
" Lafourche Interior,		3
" Terrebonne,		1

The parish of	Iberville,	1
"	West Baton Rouge,	1
"	East do do	2
"	West Feliciana,	2
"	East do,	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	1
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcassieu,	1
"	Avoyelles,	2
"	Rapides,	2
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
Total,		72

As soon as may be after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned according to the principles of this section, so as not to be less than seventy, nor more than one hundred; and whenever a new parish shall be created, a separate representation shall at the time be provided for it, which shall continue until the next decimal apportionment.

And pending the discussion on the motion of Mr. Benjamin, to refer said section to a special committee, Mr. Beatty offered the following substitute, viz:

Representation shall be equal and uniform in this State; each parish shall be entitled to representation in proportion to her population, ascertained and calculated according to the principle of representation adopted in the Constitution of the United States.

At the first regular session of the legistature after the reception of the United States census for 1850, and every ten years thereafter, the legislature shall choose some number as a representative number. The number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor.

The house of representatives shall never be composed of less than seventy nor more than one hundred members.

The first representation under this Constitution (ascertained as near as may be in accordance with the above principles) shall continue until after the next United States census, and shall be as follows:

Plaquemine 1; St. Bernard 1; Orleans, First Municipality 9; Second do. 7; Third do. 6; Right Bank 1; Jefferson 2; St Charles 1; St. John the Baptiste 1; St James 2; Ascension 2; Assumption 2; Lafourche Interior 2; Terrebonne 1; Iberville 2; West Baton Rouge 1; East Baton Rouge 2; West Feliciana 2; East Feliciana 2; St. Helena 1; Livingston 1; Washington 1; St. Tammany 1; Point Coupée 1; Concordia 1; Tensas 1; Madison 1; Carroll 1; Franklin 1; St. Mary 2; St. Martin 2; Vermillion 1; Lafayette 2; St. Landry 3; Calcassieu 1; Avoyelles 2; Rapides 3; Natchitoches 3; Sabine 1; Caddo 1; De Soto 1; Ouachita 1; Morehouse 1; Union 1; Caldwell 1; Catahoula 1; Claiborne 1; Bossier 1.

And pending the discussion on said substitute, the Convention adjourned 'till 7 o'clock p. m.

Note—Members absent, Messrs. Jos. Walker absent on account of illness, Bourg on leave, Boudousquie, Guion on leave, Penn on leave, Pugh on leave, and Ratliff on leave.

Monday, February 3d, 1845,
7 o'clock, P. M.

The Convention met pursuant to adjournment.

Mr. Wadsworth was called to the Chair.

Mr. Benjamin moved to rescind the rule adopted this morning, fixing the eve-

ning sessions at 7 o'clock, P. M., and the yeas and nays being called, resulted as follows:

Messrs. Benjamin, Briant, Cénas, Claiborne, Conrad of Jefferson, Derbes, Dunn, Garrett, Hudspeth, Kenner, King, Ledoux, Legendre, Lewis, Mazureau, Prescott of St. Landry, Roman, Roselius, Taylor of St. Landry, Voorhies, Winchester and Winder voted in the affirmative—22 ayes; and

Messrs. Beatty, Boudousquié, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Conrad of New Orleans, Covillion, Downs, Eustis, Humble, Labauve, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Trist, Waddill, and Wederstrandt voted in the negative—35 nays; consequently said motion was lost.

Mr. VOORHIES moved that the Convention adjourn till to-morrow at 10 o'clock, A. M.; the ayes and nays being called,

Messrs. Benjamin, Boudousquié, Briant, Cenas, Claiborne, Conrad of Jefferson, Derbes, Dunn, Garrett, Hudspeth, Kenner, King, Ledoux, Legendre, Lewis, Mazureau, Prescott of St. Landry, Roman, Roselius, Taylor of St. Landry, Voorhies, Winchester, and Winder voted in favor of the adjournment—23 ayes; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Conrad of New Orleans, Covillion, Downs, Eustis, Humble, Labauve, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Trist, Waddill, Wederstrandt, and Wikoff voted against the motion for adjournment—35 nays; said motion was lost.

Mr. LEWIS moved that the Convention adjourn till to-morrow at 9 o'clock, A. M., and yeas and nays being called,

Messrs. Benjamin, Boudousquié, Briant, Cénas, Claiborne, Conrad of Jefferson, Derbes, Dunn, Garrett, Hudspeth, Kenner, Legendre, Lewis, Mazureau, Roman, Roselius, Taylor of St. Landry, Voorhies, Winchester, and Winder voted in favor of the motion—20 ayes; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Conrad of New Orleans, Covillion, Downs, Eustis, Humble, King, Labauve, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulè, Splane, Stephens, Trist, Waddill, Wederstrandt and Wikoff, voted against the motion—38 nays; which motion was lost.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 6. Representation shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

The parish of Plaquemines shall have one member,		1
The parish of St. Bernard,		1
" Orleans,—		
First municipality,	5	12
Second do,	4	
Third do,	3	
That part of the parish of Orleans on the east bank of the river Mississippi,		1
The parish of Jefferson,		2
" St. Charles,		1
" St. John the Baptist,		1
" St. James,		2
" Ascension,		1
" Assumption,		2
" Lafourche Interior,		3
" Terrebonne,		1
" Iberville,		1
" West Baton Rouge,		1
" East " "		2
" West Feliciana,		2
" East "		2
" St. Helena,		1
" Livingston,		1
" Washington,		1
" St. Tammany,		1
" Point Coupèe,		1
" Concordia,		1

The parish of	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	1
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcassieu,	1
"	Avoyelles,	2
"	Rapides,	2
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
Total,		72

As soon as may be, after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned according to the principles of this section, so as not to be less than seventy nor more than one hundred, and whenever a new parish shall be created, a separate representation shall at the same time be provided for it, which shall continue until the next decimal apportionment.

The question under consideration was the motion of Mr. Benjamin, to refer the section to a special committee; and pending its discussion,

Mr. Beatty offered the following substitute, viz: Representation shall be equal and uniform in this State, each parish shall be entitled to representation in proportion to her population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

At the first regular session of the Legislature after the reception of the United States census for 1850, and every ten years thereafter, the legislature shall choose some number as a representative number.

The number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor.

The house of representatives shall never be composed of less than seventy, nor more than one hundred members.

The first representation under this constitution, (ascertained as near as may be in accordance with the above principles) shall continue until after the next U. S. census, and shall be as follows:—Plaquemine, 1; St. Bernard, 1; Orleans—First Municipality, 9; 2d, 7; 3d, 6; Jefferson, 2; Right bank, 1, St. Charles, 1; St. John Baptist, 1; St. James, 2; Ascension, 2; Assumption, 2; Lafourche Interior, 2; Terrebonne, 1; Iberville, 2; West Baton Rouge, 1; East Baton Rouge, 2; West Feliciana, 2; East Feliciana, 2; St. Helena, 1; Livingston, 1; Washington, 1; St. Tammany, 1; Point Coupée, 1; Concordia, 1; Tensas, 1; Madison, 1; Carroll, 1; Franklin, 1; St. Mary, 2; St. Martin, 2; Vermillion, 1; Lafayette, 2; St. Landry, 3; Calcassieu, 1; Avovelles, 2; Rapides, 3; Natchitoches, 3; Sabine, 1; Caddo, 1; De Soto, 1; Ouachita, 1; Morehouse, 1; Union, 1; Caldwell, 1; Catahoula, 1; Claiborne, 1; Bossier, 1.

On motion of Mr. Downs said substitute was ordered to be printed.

On motion the Convention adjourned till to-morrow at 11 o'clock, A. M.

Note.—Members absent: Messrs. Aubert, Bourg, on leave; Brumfield, Chinn, Culbertson, Garcia, Grymes, Guion, on leave; Hynson, Leonard, M'Callop, Penn, on leave; Porche, Pugh, Ratliff, on leave; St. Amand, Taylor of Assumption.

Tuesday, February 4, 1845

The Convention met pursuant to adjournment; Mr. Chinn in the chair.

The Rev. Mr. ——— opened the proceedings by prayer.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

Sec. 6. Representation shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained

and calculated according to the principle of representation adopted in the constitution of the United States. The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

	Members.
The parish of Plaquemines shall have one member,	1
The parish of St. Bernard,	1
" Orleans—	
First Municipality, 5	
Second do 4	12
Third do 3	
That part of the parish of Orleans on the east bank of the river Mississippi,	1
The parish of Jefferson,	1
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	1
" Assumption,	2
" Lafourche Interior,	3
" Terrebonne,	1
" Iberville,	1
" West Baton Rouge,	1
" East " "	2
" West Feliciana,	2
" East "	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Pointe Coupée,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	1
" St. Martin,	2
" Vermillion,	1
" Lafayette,	1
" St. Landry,	4
" Calcassieu,	1
" Avoyelles,	2
" Rapides,	2
" Natchitoches,	2
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Caldwell,	1
" Catahoula,	1
The Parish of Claiborne,	1
" Bossier,	1
Total,	72

As soon as may be after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned according to the principles of this section, so as not to be less than seventy nor more than one hundred, and whenever a new parish shall be created, a separate representation shall at the same time be provided for it, which shall continue until the next decimal apportionment.

The yeas and nays being called for, on motion of Mr. Benjamin to refer said section to a committee of twelve, composed of three members from each Congressional district, resulted as follows:

Messrs. Aubert, Benjamin, Boudousquie, Briant, Brumfield, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Garcia, Grymes, Hudspeth, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Taylor of St. Landry, Wadsworth and Winchester voted in favor of the motion—26 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted against the motion—39 nays; consequently the same was lost.

The question then under consideration, was the substitute of Mr. Beatty to said section, viz:

Representation shall be equal and uniform in this State; each parish shall be entitled to representation in proportion to her population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

At the first regular session of the legislature after the reception of the United States census for 1850, and every ten years there-

after, the legislature shall choose some number as a representative number.

The number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor.

The house of representatives shall never be composed of less than seventy nor more than one hundred members.

The first representation under this constitution, (ascertained as near as may be in accordance with the above principle) shall continue until after the next United States census, and shall be as follows:

Plaquemine, 1; St. Bernard, 1; Orleans, first municipality, 9; second, 7; third, 6; right bank, 1; Jefferson, 2; St. Charles, 1; St. JohnBaptist, 1; St. James, 2; Ascension, 2; Assumption, 2; Lafourche Interor,2; Terrebonne, 1; Iberville, 2; West Baton Rouge, 1; East Baton Rouge, 2; West Feliciana, 2; East Feliciana, 2; St. Helena, 1; Livingston, 1; Washington, 1; St. Tammany, 1; Pointe Coupée, 1; Concordia, 1; Tensas, 1; Madison, 1; Carroll, 1; Franklin, 1; St. Mary, 2; St. Martin, 2; Vermillion, 1; Lafayette, 2; St. Landry, 3; Calcassieu, 1; Avoyelles, 2; Rapides, 3; Natchitoches, 3; Sabine, 1; Caddo, 1; De Soto, 1; Ouachita, 1; Morehouse, 1; Union, 1; Caldwell, 1; Catahoula, 1; Bossier, 1.

Mr. Sellers moved that the same be laid on the table, to make way for the original section as reported by the committee, and his motion prevailed.

Mr. Preston then offered the following substitute to the first paragraph of said section, viz:

Representation in the house of representatives shall be equal and uniform in this State, and shall be forever regulated and ascertained by the number of qualified electors therein.

Mr. Downs moved that the same be laid on the table to make way for the original section, and called for the yeas and nays;

Messrs. Beatty, Benjamin, Boudousquie, Brazeale, Brent, Cade, Carriere, Chambliss, Covillion, Downs, Dunn, Garcia, Garrett, Hudspeth, Humble, Hynson, Kenner Labauve, Legendre, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison,Sellers, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—47 yeas; and

Messrs. Aubert, Briant, Brumfield, Burton, Cénas, Claiborne, Conrad of New Orleans,Conrad of Jefferson, Culbertson, Derbes, Eustis, King, Ledoux, Marigny, Mazureau, O'Bryan, Preston, Ratliff, Roselius, St. Amand and Stephens voted in the negative—21 nays; the motion was consequently carried.

Mr. Benjamin then moved to strike out the words, "*each parish shall have at least one representative,*" and called for the yeas and nays.

Previous to the question being put, Mr. Porter offered the following resolution, viz:

But no new parish shall be created until it has population enough to entitle it to a representative according to the ratio existing at the time, or with a territory less than four hundred square miles.

And pending the discussion, the Convention adjourned till to-morrow at 11 o'clock, A. M.

Note.—Members absent, Messrs. Joseph Walker, president, absent on account of illness—Bourg, Guion, Penn and Pugh, all absent on leave.

Wednesday, February 5, 1845.

The Convention met pursuant to adjournment, Mr. Chinn in the chair.

The Rev. Mr. Beatty opened the proceedings with prayer.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

Sec. 6. "Representation shall be equal and uniform in this State; each parish shall have at least one representative, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation adopted in the constitution of the United States.

The first representation under this constitution shall continue until after the next United States census, in 1850, and shall be as follows:

The parish of Plaquemines shall have one member, 1

The parish St. Bernard,		1
" Orleans,		
First Municipality	5	12
Second "	4	
Third "	3	
The Parish of Orleans, on the east bank of the river Mississippi,		1
The parish of Jefferson,		2
" St. Charles,		1
" St. John the Baptist,		1
" St. James,		2
" Ascension,		1
" Assumption,		2
" Lafourche Interior,		3
" Terrebonne,		1
" Iberville,		1
" West Baton Rouge,		1
" East "		2
" West Feliciana,		2
" East "		2
" St. Helena,		1
" Livingston,		1
" Washington,		1
" St. Tammany,		1
" Point Coupeé,		1
" Concordia,		1
" Tensas,		1
" Madison,		1
" Carroll,		1
" Franklin,		1
" St, Mary,		1
" St. Martin,		2
" Vermillion,		1
" Layfayette,		1
" St. Landry,		4
" Calcassieu,		1
" Avoyelles,		2
" Rapides,		2
" Natchitoches,		2
" Sabine,		1
" Caddo,		1
" De Soto,		1
" Ouachita,		1
" Morehouse,		1
" Union,		1
" Caldwell,		1
" Catahoula,		1
" Claiborne,		1
" Bossier,		1
Total,		72

As soon as may be after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned according to the principles of this section, so as not to be less than seventy, nor more than one hundred; and whenever a new parish shall be created a separate representation shall at the same time be provided for it, which shall continue until the next decimal opportionment

On motion of Mr. O'BRYAN the additional sections that were made the order of the day, for to day, after the reading of the journal were laid on the table, subject to call.

Mr. GUION moved that a committee of three members from each congressional district be appointed, with instructions to report wether it would not be just and proper to take, as a basis of representation, the entire property of the State, both real and personal, subject to taxation, together with all the white population thereof, who may be entitled to the elective franchise; the yeas and nays being called for resulted as follows:

Messrs. *Auburt*, *Benjamin*, *Boudousquie*, *Briant*, *Brumfield*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *Labauve*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Taylor* of St. Landry, *Wikoff*, *Winchester* and *Winder*, voted in favor of the motion—27 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Claiborne*, *Covillion*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *King*, *Leonard*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Roselius*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulè*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill* and *Wederstrandt* voted against the motion—44 nays; the same was lost.

The Convention then took under consideration the motion of Mr. BENJAMIN to strike out the words "*each parish shall have at least one representative*," from the said sixth section; and the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Briant*, *Brumfield*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Grymes*, *Guion*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Marigny*,

Mazureau, *Preston*, *Pugh*, *Ratliff*, *Roman*, *Roselius St. Amand*, *Saunders*, *Soulè*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Wadsworth*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—40 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garcia*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Waddill*, and *Wederstrandt* voted in the negative—32 nays; consequently the motion was carried.

Mr. Saunders offered the following amendment, viz:

"After the year 1846 the members of the house of representatives shall be elected decimally, as follows:

"Every parish containing 250 qualified voters may elect one representative, and in the same proportion for a number of qualified voters greater than 250. Provided, that no parish shall ever elect more than one sixth of the whole number of representatives.

Parishes containing less than 250 qualified voters shall be united when they adjoin each other two or more together when necessary to complete the number of 250 qualified voters, and when so united shall be considered as one parish in all things respecting the election of representatives; and any such parish not adjoining one of the same class, shall be united to the adjoining parish having the largest fraction over 250 qualified voters; and any two parishes, so united, shall be considered as one parish in all things respecting the election of representatives."

Mr. Saunders then moved that the said amendment, together with section sixth, be referred to a special committee, composed of three members from each congressional district; and the yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Briant*, *Brumfield*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Wadsworth*, *Wikoff* and *Winchester* voted in the affirmative—38 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott*, of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Splane*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrandt*, and *Winder*, voted in the negative—34 nays; consequently the motion was carried.

Mr. Ratliff then moved that the Convention adjourn till this evening at 7 o'clock P. M.; which motion was lost.

Mr. Read then offered the following amendment to the section sixth, to be submitted to the special committee, viz:

"Each parish containing one hundred qualified electors shall be entitled to one representative; five hundred qualified electors, two representatives; one thousand qualified electors, three representatives; two thousand qualified electors, four representatives; four thousand qualified electors, five representatives; eight thousand qualified electors, six representatives; sixteen thousand qualified electors, seven representatives; thirty-two thousand qualified electors, eight representatives; and so on in regular progression, except in relation to the parish of Orleans, which shall be entitled to double the number it would have under the regular progression applicable to other parishes.

In the year 1850, and every ten years thereafter, an apportionment of representation shall be made as herein prescribed.

The following shall be the representation until the year 1850, viz:

The parish of	Plaquemines	2
The parish of	St. Bernard,	1
"	Orleans,	10
"	Jefferson,	2
"	St. Charles	1
"	St. John the Baptiste,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	1
"	Iberbille,	1
"	West Baton Rouge,	1

The Parish of	East Baton Rouge,	2
"	East Feliciana,	2
"	West Feliciana,	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupee,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	1
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	3
"	Calcassieu,	1
"	Avoyelles,	2
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
	Total,	75

No parish hereafter to be created shall contain less than five hundred and twenty-five square miles; nor shall any two or more parishes now existing, or which may hereafter exist, ever be consolidated so as include within the limits ef the intended parish more than five hundred and twenty-five square miles, and then only with the consent of the people interested therein."

Mr. Guion moved that the instructions offered by him, be also submitted to the special committee.

On motion of Mr. Beatty it was ordered that the committee take into consideration all the projects that had been offered; and

On motion the Convention adjourned till this evening at 7 o'clock, P. M.

Note.—Members absent, Messrs. Jos. Walker, president, on account of illness, Bourg and Penn absent on leave.

Wednesday Evening, February 5, 1845.

The Convention met pursuant to adjournment.

Mr. Marigny was called to the Chair.

On motion of Mr. Conrad of New Orleans, the additional sections offered by Messrs. Roman, Claiborne, and Taylor of Assumption, and laid on the table subject to call, were made the special order of the day for to-morrow.

On motion of Mr. Preston the Convention took under consideration the 14th section of article 2d, as reported by the committee, viz:

Sec. 14. "Not less than a majority of the members of each house of the general assembly shall form a *quorum* to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members, in such manner and under such penalties as may be prescribed thereby;" and

On motion, said section was adopted.

On motion, the Convention then took up the 15th section, of article 2d, viz:

Sec. 15. "Each house of the general assembly shall judge of the qualifications, elections and returns of its members; but a contested election shall be determined in such manner as shall be directed by law."

And, on motion, the same was adopted.

Then the Convention proceeded to the to the 16th section of article 2d, viz:

Sec. 16. "Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not the second time for the same offence."

On motion, the said session was adopted.

The Convention then took up section 17, of article 2d, viz:.

Sec. 17. "Each house of the general assembly shall keep and publish weekly a journal of its proceedings, and the yeas and nays of the members on any question shall at the desire of any two of them, be entered on the journal."

On motion, said section was adopted.

The Convention then took up the section 18th, of article 2d, viz:

Sec. 18. "Each house may punish by imprisonment, during the session, any person not a member, for disrespectful and disorderly behavior in its presence, or for ob-

structing any of its proceedings: *provided*, such imprisonment shall not at any one time exceed ten days."

Mr. Downs moved to strike out the words "*during the session*" from said section; his motion prevailed.

Mr. Beatty moved to strike out the words "*at any one time*," and insert the words "*for any one offence.*" His motion prevailed.

Mr. Ratliff moved for the rejection of the section as amended, and called for the yeas and nays, which resulted as follows:

Messrs. Carriere, Kenner, Ratliff, Soulé, Splane, Trist, and Wederstrandt, voted in the affirmative—7 yeas; and

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brent, Briant, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Humble, Hynson, King, Ledoux, Legendre, Lewis, McRae, Mayo, Mazureau, O'Bryan, Peets, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Voorhies, Waddill, Wadsworth, Winchester and Winder voted in the negative—54 nays; consequently the motion was lost.

On motion of Mr. Downs, said section 18th, was adopted as amended.

The Convention then took up the 19th section of article 2d, viz:

Sec. 19. "Neither house during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting."

And, on motion, the same was adopted.

The Convention then took up the 20th section of article 2d, viz:

Sec. 20. "The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance on, going to, and returning from the sessions of their respective houses, provided that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made: *And provided, also*, that this compensation shall exist for the period of sixty days only, but if the general assembly shall at any time extend the session beyond sixty days, they shall not receive any compensation for any period beyond the said sixty days."

Mr. Beatty moved to amend the proviso, by inserting the word "*the*" instead of "*this*," and insert after the word compensation "*for attendance.*" His motion prevailed.

Mr. McRae moved to strike out the proviso, and called for ayes and nays.

And previous to the question being put, Mr. Read offered the following substitute, viz:

"And provided also, that this compensation shall exist for the period of sixty days, only, but if the general assembly shall at any time extend the session beyond sixty days, they shall receive but one half the foregoing compensation for any period beyond the said sixty days.

And pending the discussion the Convention adjourned until tomorrow, at 11 o'clock, a. m.

Note.—Members absent—Messrs. Joseph Walker, President, absent on account of sickness; Boudousquié, Bourg, on leave; Garcia, Grymes, Leonard, McCallop, Penn, on leave; St. Amand and Wikoff.

Thursday, February, 6, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Woolridge opened the proceedings with prayer.

The President appointed Messrs. Saunders, Wm. B. Scott, and Ratliff from third district, Downs, Porter, Lewis from fourth, Wadsworth, Benjamin, Grymes from first; and Preston, Roman and Beaty from the second, members of the committee to whom was referred the 6th section of article 2nd.

ORDER OF THE DAY.

Sec. 9. In all cases where persons offering to vote shall be naturalized citizens the residence of two years in the State, required by the preceding section, shall commence from or after the date of their naturalization.

Mr. Guion offered the following as a substitute to the 9th section;

"No person shall have the right of voting

in this State, until he shall have been two years a citizen of the United States."

Mr. Downs offered the following proviso to the substitute, viz: "Provided that this section shall not be construed so as to disfranchise any person already entitled to vote."

And on the adoption of the substitute, as amended by the proviso, the yeas and nays being called for resulted as follows:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Preseott* of St. Landry, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wadsworth*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—42 yeas; and

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Chambliss*, *Downs*, *Eustis*, *Garcia*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulè*, *Splane*, *Stephens*, *Waddill* and *Wederstrandt* voted in the negative—32 nays; consequently the motion was carried.

Mr. Voorhies moved to rescind the rule fixing the evening sessions at 7 o'clock, and the yeas and nays being called for, resulted as follows:

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Grymes*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Leonard*, *McCallop*, *Mazureau*, *Porche*, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Soulè*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wederstrandt*, *Winchester* and *Winder* voted in favor of the motion—42 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Eustis*, *Humble*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Preseott* of Avoyelles, *Preston*, *Pugh*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Trist*, *Waddill*, *Wadsworth* and *Wikoff* voted against the motion—31 nays; the same was carried.

On motion the Convention adjourned till to-morrow at 11 o'clock a. m.

Note.—Members absent, Messrs. Jos. Walker, president, absent on account of illness, and Penn on leave.

Friday, February 7th, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Warren opened the proceedings by prayer.

On motion of Mr. Saunders, chairman of the committee to whom was referred the 6th section of article 2d, it was ordered that the said committee be authorised to have printed all documents in relation to said section 6th, and which may facilitate them in the discharge of their duties.

Leave was granted Mr. Penn to have his vote recorded in the negative on the vote given yesterday on the adoption of the 9th section as amended.

On motion of Mr. Ratliff, chairman of the committee on contingent expenses, the following resolution was adopted, viz:

"Resolved, that the committee on contingent expenses be authorized to pay to J. Bayon, editor of the Courier, and to Besangon, Ferguson & Co., editors of the Jeffersonian Republican, each the sum of five hundred dollars, being in advance for ten copies of their respective papers to be furnished the Convention during its session, as per resolution of this Convention adopted on the 27th January, 1845."

ORDER OF THE DAY.

Sec. 10. It shall be the duty of the general assembly to provide by law for the registration, at least three months before every general election, of all the qualified voters of the State, in the several parishes in which they actually reside. No person shall be entitled to vote except in the parish of his residence, and if the parish is divided into election precincts or wards, in the election precinct or ward where he resides; and except his name shall have been recorded in the last registry made previous to the election.

Mr. Downs moved to strike out from said section the words, "It shall be the duty of the general assembly to provide by law for

the registration, at least three months before every general election, of all the qualified voters of the State, in the several parishes in which they actually reside."

Mr. CONRAD of New Orleans, offered the following amendment, viz:

"It shall be the duty of the general assembly to provide by law for the registration, at least three months before the general election, of all the qualified voters residing in the several cities and incorporated towns having a white population exceeding one thousand persons."

Mr. SELLERS offered the following amendment, viz:

"Residence in a parish, city or town entitled to representation, can only be acquired by personal residence during the time specified, to commence by a declaration filed by the person wishing to acquire it, in the office of the clerk of some court of record for such parish, and the commencement of such residence shall only date from such declaration; nor shall any proof other than such record of declaration be received, to prove the commencement of such residence."

Mr. BRENT then moved for the previous question.

Mr. RATLIFF moved that the Convention adjourn till Monday next, at 11 o'clock, a. m., and the yeas and nays being called for,

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Briant, Brumfield, Cénas, Claiborne, Conrad* of Jefferson, *Culbertson, Dunn, Garcia, Guion, Kenner, Labauve, Ledoux, Legendre, Marigny, Mazureau, Ratliff, Read, Roman, Roselius, Scott* of Baton Rouge, *Trist, Wadsworth* and *Winchester* voted in favor of the motion—27 yeas; and

Messrs. *Bourg, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Conrad* of New Orleans, *Covillion, Derbès, Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Leonard, Lewis, M'Callop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Pugh, St. Amand, Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulé, Splane, Stephens, Taylor* of Assumption, *Voorhies, Waddill, Wederstrandt* and *Wikoff*, voted against the motion—44 nays; the same was lost.

Mr. CONRAD of Jefferson, then moved that the Convention adjourn till to-morrow at 11 o'clock, a. m., and the yeas and nays being called for,

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brumfield, Burton, Cenas, Claiborne, Conrad* of Jefferson, *Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Leonard, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Trist, Voorhies, Wadsworth, Wikoff* and *Winchester* voted in the affirmative—32 yeas; and

Messrs. *Brazeale, Brent, Briant, Cade, Carriere, Chambliss, Conrad* of New Orleans, *Covillon, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulè, Splane, Stephens, Taylor* of Assumption, *Waddill* and *Wederstrandt* voted in the negative—39 nays; consequently the motion was lost.

Mr. BRENT then renewed his motion for the previous question. The president then put the question, "Shall the main question be now put?" and the yeas and nays being called for,

Messrs. *Beatty, Benjamin, Boudousquié, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Downs, Eustis, Humble, Hynson, Ledoux, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Read, Roman, St. Amant, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé, Splane, Stephens, Taylor* of Assumption, *Trist, Waddill, Wadsworth, Wederstrandt, Wikoff*, and *Winchester* voted in the affirmative—54 yeas; and

Messrs. *Conrad* of New Orleans, *Claiborne, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Pugh, Ratliff, Roselius, Sellers*, and *Voorhies*, votedin the negative; 17 nays —the motion was carried.

On the motion of Mr. VOORHIES to adjourn till to-morrow at 11 o'clock, a. m., the yeas and nays being called for, resulted as follows:

Messrs. *Aubert, Benjamin, Bourg, Bri-*

ant, Burton, Cenas, Claiborne, Conrad of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, King, Labauve, Legendre, Leonard, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Voorhies, Wadsworth, Wikoff,* and *Winchester* voted in favor of the motion—32 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Cade, Carriere, Chambliss, Downs, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulé, Splane, Stephens, Taylor* of Assumption, *Waddill,* and *Wederstrandt* voted against the motion —35 nays; the motion was therefore lost.

On the call being made upon the president as to what question was the main question, the president decided that there having been no motion made to adopt or reject the section under debate, and the first motion made being to strike out a portion of the section, that that motion was the previous or main question.

Mr. Lewis appealed from the decision of the chair, and called for the yeas and nays, and

Messrs. *Brazeale, Brent, Brumfield, Cade, Carriere, Cénas, Chambliss, Claiborne, Covillion, Culbertson, Downs, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé, Splane, Stephens, Taylor* of Assumption, *Voorhies, Waddill,* and *Wederstrandt* voted to sustain the decision of the chair—40 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Briant, Burton, Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, St. Amand, Sellers, Wadsworth, Wikoff,* and *Winchester* voted against the decision of the chair—27 nays; consequently the decision was sustained.

The yeas and nays being then called on Mr. Downs' motion to strike out the words "It shall be the duty of the general assembly to provide by law for the registration, at least three months before every general election, of all the qualified voters of the State, in the several parishes in which they actually reside," resulted as follows:

Messrs. *Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Covillion, Culbertson, Derbes, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulé, Splane, Stephens, Taylor* of Assumption, *Voorhies, Waddill* and *Wederstrandt,* voted in the affirmative—44 yeas; and

Messrs. *Aubert, Briant, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Garcia, Guion, Hudspeth, King, Labauve, Leonard, Lewis, Mazureau, Pugh, Ratliff, Roman, Roselius, St. Amand, Wadsworth, Wikoff,* and *Winchester,* voted in the negative—21 nays; so the motion was carried.

On motion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

Saturday, February 8, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

On motion of Mr. Dunn, the chairman of the Convention, (Mr. Saunders) was authorized to sign warrants on the treasury of the State.

On motion of Mr. Ratliff, the secretary was directed to give to the printers to the Convention a certified copy of the resolution adopted yesterday, allowing to each the sum of $500.

Mr. Ratliff, chairman of the committee on contingent expenses, submitted the following report and resolution, viz:

"The committee on contingent expenses, to whom was referred the business of settling and adjusting the account of James A. Kelly, late printer to the Convention, beg leave to report, that they have had the accounts of Mr. Kelly under consideration, and after deducting several items in said accounts, marked C. D. A. B. E. F. G. and H., amounting to $874, find a balance due to said James A. Kelly, of $1474, (fourteen hundred and seventy-four dollars,)—all

of which is respectfully submitted with the following resolution, viz:

(Signed) CYRUS RATLIFF,
Chairman."

"*Resolved*, That the sum of $1474, (fourteen hundred and seventy-four dollars,) be allowed James A. Kelly, late printer to the Convention, in full for all extra printing for the Convention, and also for all other expenses attendant upon his removal from Jackson to New Orleans."

Mr. BRENT moved that the report and resolution be laid on the table subject to call, which motion was lost.

Mr. RATLIFF then moved for the adoption of the report and resolution. The yeas and nays being called for—

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, King, Ledoux, Legendre, Leonard, Lewis, McCallop, McRea, Marigny, Mayo, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—54 yeas; and

Messrs. Brazeale, Brent, Carriere, Covillion, Hynson, Peets, Penn and Porche voted in the negative—8 nays; consequently the motion was carried.

On motion of Mr. DOWNS, leave of absence was granted Messrs. Chinn, and Scott of Baton Rouge.

ORDER OF THE DAY.

SECT. 10. No person shall be entitled to vote except in the parish of his residence, and if the parish is divided into election precincts or wards, in the precinct or ward where he resides, and except his name shall have been recorded in the last registry made previous to the election.

Mr. CADE moved to strike out after the words "of his residence," the balance of the section.

Mr. ROMAN moved to amend said section by inserting after the word "vote" the words "at any elections held in this State," and his motion prevailed.

Mr. BENJAMIN moved for a division of the motion to strike out, that is the Convention first proceed to strike out from the words, "and if the parish is divided," to the words "ward where he resides." His motion prevailed.

The ayes and nays being called for on the motion to strike out, resulted as follows:

Messrs. Bourg, Brazeale, Brent, Brumfied, Burton, Cade, Carriere, Cénas, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt voted in favor of the motion—36 ayes; and

Messrs. Aubert, Beatty, Benjamin, Briant, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Eustis, Guion, Hudspeth, King, Labauve, Leonard, Lewis, Mazureau, Pugh, Roman, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder voted against the motion—25 nays; consequently the same was adopted.

Mr. LEWIS then moved to strike out the balance of said section, that is from the words "and except" to the last word "election." His motion was adopted.

Mr. CONRAD of New Orleans, then moved the additional amendment to the section as amended, viz: "and in cities or towns divided into two election precincts, by the election precinct where he resides," and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Cade, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Legendre, Leonard, Lewis, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, Scott of Feliciana, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder voted in favor of the amendment—36 ayes; and

Messrs. Brazeale, Brent, Burton, Carriere, Chambliss, Downs, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt voted

against the amendment—27 nays; consequently the same was adopted.

Mr. LEWIS then moved the adoption of the section as amended, viz:

"SECT. 10. No person shall be entitled to vote at any election in this State, except in the parish of his residence, and in cities or towns divided into election precincts, in the election precinct in which he resides;" and the yeas and nays being called for—

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Cade, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Legendre, Leonard, Lewis, Mazureau, Penn, Pugh, Roman, Roselius, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder voted in the affirmative—37 ayes; and

Messrs. Brazeale, Brent, Burton, Chambliss, Downs, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Madison, Splane, Waddill and Wederstrandt voted in the negative—24 nays; consequently the motion was adopted.

Mr. SELLERS renewed the resolution offered by him on yesterday, and moved that the same be printed and laid on the table, subject to call, which motion prevailed—which is as follows, viz:

"Residence in a parish, city or town, entitled to representation, can only be acquired by personal residence during the time specified, to commence by a declaration filed by the person wishing to acquire it, in the office of the clerk of some court of record for such parish, and the commencement of such residence shall only date from such declaration; nor shall any proof other than such record of declaration be received, to prove the commencement of such residence.

On motion of Mr. RATLIFF, the secretary was directed to give to Mr. J. A. Kelly, late printer to the Convention, a certified copy of the resolution adopted to-day, allowing to said Kelly the sum of fourteen hundred and seventy-four dollars, ($1474.)

On motion the Convention adjourned till Monday next, at 11 o'clock, a. m.

NOTE.—Members absent—Messrs. Joseph Walker, President, absent on account of illness; Messrs. Boudousquié, Garcia, Grymes, Kenner, St. Amand, Trist, Winchester; and Messrs. Chinn, and Scott of Baton Rouge, absent on leave.

MONDAY, February 10, 1845.

The Convention met pursuant to adjournment. The Hon. Joseph Walker, president, in the chair.

The Rev. Mr. WOOLRIDGE opened the proceedings by prayer.

On motion of Mr. SPLANE the following resolution was adopted:

"*Resolved*, That a committee of three be appointed, whose duty it shall be to report to this Convention the causes which operate against the daily report of the debates of this body; and further, to report upon the necessity of appointing one or more additional reporters."

The president appointed Messrs. Splane, Conrad of New Orleans, and Scott of Madison, members of said committee.

ORDER OF THE DAY.

ARTICLE SECOND, AS REPORTED BY THE COMMITTEE.

SEC. 20. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance on, going to, and returning from the sessions of their respective houses, provided that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alterations shall have been made: and provided also, that this compensation shall exist for the period of sixty days only, but if the general assembly shall at any time extend the session beyond sixty days, they shall not receive any compensation for any period beyond the said sixty days.

Mr. READ, with leave, withdrew the proviso offered by him on Wednesday evening last, and submitted the following substitute, viz:

"Provided also, that no session shall extend to a period beyond sixty days, to date from its commencement."

Mr. BRENT offered the following amendment, which was accepted by Mr. Read:

"Except the session of the first legisla-

ture which is to convene after the adoption of this constitution."

Mr. Downs offered to amend said substitute by adding the words, "and unless, also, the session be protracted on a request by the governor, or by a vote of two-thirds of the members of the legislature."

Mr. Scott of Baton Rouge, moved to strike out the latter part of the amendment, the words "or by a vote of two-thirds of the members of the legislature."

His motion was adopted.

And the yeas and nays being called for on the adoption of the amendment of Mr. Downs, as amended, resulted as follows:

Messrs. Burton, Cade, Covillion, Downs, Humble, Mayo, Preston, Pugh, Scott of Feliciana, Taylor of St. Landry, and Wikoff voted in the affirmative—11 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Carriere, Chambliss, Chinn, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Grymes, Hudspeth, Hynson, Kenner, King, Labauve, Legendre, Leonard, Lewis, McCallop, McRae, Marigny, Mazureau, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott of Raton Rouge, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt and Winder voted in the negative—51 nays; the motion was consequently lost.

Mr. Read moved to adopt the proviso as amended, and called for the yeas and nays.

Mr. Beatty moved for a division, that the Convention first proceed to adopt the first paragraph of said proviso, and his motion prevailed.

The yeas and nays being then called for on the adoption of the first paragraph, resulted as follows:

Messrs. Aubert, Benjamin, Brazeale, Brent, Cade, Carriere, Chambliss, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Eustis, Grymes, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Labauve, Legendre, Leonard, Lewis, McCallop, Marigny, Mazureau, Peets, Penn, Porche, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulè, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wederstrandt, Winchester and Winder voted in the affirmative—50 yeas; and

Messrs. Beatty, Bourg, Briant, Burton, Chinn, Covillion, Dunn, King, McRae, Mayo, Porter, Preston, Pugh, Ratliff, Sellers, Stephens, Waddill and Wikoff voted in the negative—18 nays; the motion was adopted.

Mr. Beatty then offered to amend the said proviso by adding after the word "commencement," the words "and that any legislative action had after the expiration of the said sixty days, shall be null and void."

Mr. Covillion moved to lay the amendment on the table indefinitely, and called for the yeas and nays; and

Messrs. Bourg, Brazeale, Briant, Burton, Carriere, Chambliss, Conrad of New Orleans, Conrad of Jefferson, Covillion, Garcia, Humble, Hynson Mayo, Penn, Prescott of Avoyelles, Prescott of St. Landry, Preston, Pugh, Ratliff, Taylor of Assumption, Waddill, Wederstrandt and Winchester voted in favor of the motion—24 yeas; and

Messrs. Aubert, Beatty, Benjamin, Briant, Cade, Cènas, Chinn, Culbertson, Derbes, Downs, Dunn, Eustis, Grymes, Garrett, Guion, Hudspeth, Kenner King, Labauve, Legendre, Leonard, Lewis, McCallop, McRae, Marigny, Mazureau, Peets, Porche, Porter, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Wikoff and Winder voted in the negative—47 nays; the motion was lost.

On motion of Mr. Beatty the amendment was adopted.

Mr. Marigny offered the following resolution, viz:

Resolved, That the mileage of the members of both houses of the general assembly shall be so calculated as never to exceed forty dollars for going to, and returning from the seat of government.

On motion of Mr. Beatty the said amendment was laid on the table indefinitely.

Mr. Mayo moved to strike out from said section, in the 5th line, the words "going to and returning from," and insert in the 6th line, after the word "houses," the words

"and ten cents per mile for travelling to, and returning from the place where the sessions of the legislature may be held."

Mr. BEATTY moved that said amendment be laid on the table indefinitely, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Briant, Chambliss, Chinn, Conrad of Orleans, Downs, Dunn, Garcia, Guion, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Pëets, Penn, Porter, Preston, Prudhomme, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Wikoff, Winchester and Winder voted in the affirmative—37 yeas; and

Messrs. Brent, Burton, Cade, Cènas, Conrad of Jefferson, Covillion, Culbertson, Derbes, Eustis, Garrett, Kenner, Labauve, Leonard, Marigny, Mayo, O'Bryan, Porche, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Ratliff, St. Amand, Scott of Feliciana, Soulé, Trist, Voorhies, Waddill and Wederstrandt voted in the negative—28 nays; the motion was carried.

Mr. BEATTY then moved the adoption of the section as amended, viz:

SEC. 20. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day, during attendance on, going to and returning from the sessions of their respective houses, provided that the same shall be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made: and provided, also, that no session shall extend to a period of beyond sixty days, to date from its commencement; and that any legislative action had after the expiration of the said sixty days, shall be null and void, except the session of the first legislature which is to convene after the adoption of this constitution.

The yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Briant, Brumfield, Cade, Chambliss, Chinn, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Leonard, Lewis, McCallop, Marigny, Peets Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—58 yeas; and

Messrs. Burton, Covillion, McRae, Mayo, O'Bryan, Preston, Ratliff and Waddill voted against the motion—8 nays; and consequently the same was carried.

On motion the Convention took under consideration section 21st, viz:

SEC. 21. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

The same was adopted.

Then the Convention proceeded to section 22d, viz:

SEC. 22. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

The same was adopted.

The Convention next took up the 23d section, viz:

SEC. 23. No person while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society or sect, shall be eligible to the general assembly, or to any office of profit or trust, under this State.

On motion of Mr. LEWIS said section was laid on the table, subject to call.

The Convention then took up the 24th section, viz:

SEC. 24. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any other office of

profit or trust under the State government, until he shall have obtained a quietus for the amount of such collection, and for all public moneys with which he may have been entrusted.

The said section was adopted.

The Convention then took up the 25th section, viz:

Sec. 25. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule.

The section was adopted.

The Convention proceeded to the consideration of the 26th section, viz:

Sec. 26. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills; provided, that they shall not introduce any new matter under the color of an amendment which may not relate to raising a revenue.

The section was adopted.

Then the Convention took up the 27th section, viz:

Sec. 27. The general assembly shall regulate by law, by whom and in what manner writs of election shall be issued to fill vacancies which may happen in either branch thereof.

On motion, said section was adopted.

Mr. Conrad of New Orleans, gave notice that he would move the re-consideration of the vote given on the 8th section, for the purpose of offering the following amendment, viz:

"And shall, during said year, have paid, or become liable to pay a state tax to the amount of one dollar; or who, or whose father or mother shall during said year have been a housekeeper or head of a family, or paid rent to the amount of dollars."

Mr. Conrad then moved that the same be printed; which motion was lost.

Mr. Garrett offered the following resolution, viz:

"Resolved, that the committee of revision be instructed to add a proviso to the 8th section of the 2d article, to the effect that the provision in the 8th section of this article, requiring a residence of two years in this state before any person shall be a qualified elector, shall not be so construed as to deprive any person of the right of voting who is entitled to that right under the constitution of 1812, at the time of the adoption of this constitution."

On motion, the same was referred to the committee of revision.

Mr. Taylor of Assumption, called up the 11th section, viz:

Sec. 11. Absence from the State shall interrupt the residence required in the preceding section, unless the person absenting himself shall be a housekeeper, and his dwelling shall be actually and exclusively occupied during his absence by his family or some portion thereof.

To which he offered the following substitute, viz:

"Absence from the State for more than sixty days shall interrupt the residence acquired in the preceding section, unless the person absenting himself shall be a housekeeper, or shall occupy a tenement for carrying on some business or mechanical pursuit, and his dwelling house or the tenement for carrying on his business, or mechanical pursuit, shall be actually and exclusively occupied during his absence by his family or servants, or some portion thereof, or by some one employed by him in business or mechanical pursuit."

On motion of Mr. Conrad of New Orleans, the said substitute was laid on the table subject to call, and ordered to be printed.

Mr. Scott of Feliciana, moved that the Convention take under consideration the 9th section of article 2d.

And previous to the reading of the same, the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note—Members absent, Messrs. Boudousquié and Wadsworth.

Tuesday, February 11, 1845.

The convention met pursuant to adjournment.

The Rev. Mr. Scott opened the proceedings by prayer.

ORDER OF THE DAY.

Article 2d, as reported by the committee.

Sec. 9. "The members of the Senate shall be chosen for the term of four years, and when assembled, shall have the power to choose its officers every two years."

On motion of Mr. Scott of Feliciana, said section was adopted.

The 10th section was then called up, of article 2d, and pending the reading of the same, Mr. Taylor, of Assumption, moved that it be laid on the table, subject to call, and his motion prevailed.

The Convention took under consideration section 11th. Pending the reading of it, Mr. Conrad of New Orleans, moved that the said section and all others in relation to the same subject, be laid on the table, subject to call; his motion was adopted.

On motion of Mr. Benjamin, the convention then took under consideration the 4th section of article 2d, as reported by the committee, viz:

Sec. 4. No person shall be a representative who, at the time of his election, is not a free white male citizen of the United States, and hath not attained the age of twenty-one years, and resided in the State two years next preceding his election, and the last year thereof in the parish for which he may be chosen.

To which Mr. Chinn offered the following amendment, viz: "And shall hold and possess in his own name, landed property to the value of at least five hundred dollars."

Mr. Voorhies moved to reject said amendment, and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Brumfield, Barton, Cade, Carriere, Cenas, Chambliss, Claiborne, Conrad of Jefferson, Couvillion, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, Humble, Hynson, Kenner, King, LaBauve, McCallop, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff, and Winder voted in the affirmative—52 ayes.

Messrs. Beatty, Benjamin, Bourg, Briant, Chinn, Conrad of New Orleans, Culbertson, Derbes, Legendre, Lewis, Pugh, Roman, and St. Amand voted in the negative—nays 13. The motion was carried.

A call being made upon the President to declare whether the section reported by the committee, or that section as amended at previous sittings, was the section under consideration.

The President decided that the section as amended was before the convention.

Mr. Downs appealed from the decision of the chair, and the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Brumfield, Cenas, Chambliss, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillion, Culbertson, Derbes, Dunn, Garrett, Grymes, Guion, Hudspeth, Hynson, Kenner, King, LaBauve, Legendre, Lewis, Mazureau, Prescott of Avoyelles, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, and Winder, voted in favor of the decision of the chair—41 ayes.

Messrs. Brent, Burton, Cade, Carriere, Downs, Eustis, Humble, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Trist, Waddill, and Wederstrandt voted against the decision of the chair—31 nays, consequently the decision was sustained.

Mr. Guion moved to strike out the word "*four*," and insert in lieu thereof, the word "*three*."

Mr. Downs moved for a division, that is, the convention first proceed to strike out, which motion was adopted.

Mr. Prescott of St. Landry, offered the following substitute, viz:

Section 4. "All persons enjoying the right of suffrage under this constitution, shall be eligible to a seat in the House of Representatives."

The President decided the substitute was inadmissible, because the division of a question was then pending before the convention, and could be received only after the decision of the two branches of the question by the convention.

Mr. Downs moved to lay on the table, indefinitely, the motion to strike out, which motion was lost.

The yeas and nays being then called

for, on the motion of Mr. GUION, to strike out the word "*four*" resulted as follows:

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Cade, Carriere, Cenas, Chambliss, Chinn, Conrad of Orleans, Downs, Eustis, Garrett, Guion, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Trist, Waddill, and Wederstrandt voted in the affirmative---44 ayes.

Messrs. Beatty, Brumfield, Burton, Claiborne, Conrad of Jefferson, Couvillion, Culbertson, Derbes, Dunn, Garcia, Grymes, Hudspeth, Kenner, King, LaBauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, and Winder voted in the negative---29 nays. The motion was adopted.

Mr. GUION then moved that the blank be filled with the word "*three*," and the ayes and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillion, Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, LaBauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, and Winder voted in favor of the motion---38 ayes.

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Trist, Waddill, and Wederstrandt voted against the motion---35 nays, consequently the same was adopted.

Mr. PRESCOTT of St. Landry, then renewed the substitute offered by him and decided by the chair to be out of order, viz: Sec. 4. "All persons enjoying the right of suffrage under this constitution, shall be eligible to a seat in the House of Representatives."

Mr. CONRAD of New Orleans, moved that the same be laid on the table indefinitely, and called for the yeas and nays:

YEAS---Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Barton, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillion, Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Hudspeth, Kenner, King, LaBauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, and Winchester voted in the affirmative---38 ayes.

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill, and Wederstrandt voted in the negative---36 nays. The motion was lost.

Mr. BRENT moved to strike out all of the 4th section of article 2d, as amended, and the yeas and nays being called for:

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Eustis, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill, and Wederstrandt voted in the affirmative---36 ayes.

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillion, Culbertson, Derbes, Dunn, Garcia, Garrett, Grymes, Guion, Hudspeth, Kenner, King, LaBauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester, and

Winder voted against the motion—40 nays, consequently the same was lost.

Mr. CLAIBORNE offered the following substitute, viz: "No person shall be a representative who, at the time of his election, has not been for three years a free white male citizen of the United States, and hath not attained the age of twenty one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen."

And the ayes and nays being called for:

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Couvillion, Culbertson, Derbes, Garrett, Grymes, Guion, Hduspeth, Kenner, King, LaBauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Scott of Feliciana, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, and Winchester voted in favor of the adoption—38 ayes.

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Downs, Garcia, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Scott of Madison, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wederstrandt, and Winder voted in the negative—35 nays, consequently the substitute was adopted.

Mr. BENJAMIN moved that the convention take under consideration the 1st section of article 3d, as reported by the majority, viz:

Article 3d as reported by the majority. Section 1st: "The supreme executive power of this State, shall be vested in a chief magistrate, who shall be styled the governor of the state of Louisiana. He shall hold his office during the term of four years, and together with the lieutenant governor, chosen for the same term, be elected as follows."

On motion said section was adopted.

The convention then proceeded to the consideration of section 2d of said article 3d, viz:

Section 2d. "The citizens entitled to vote for representatives, shall vote for a governor and lieutenant governor, at the time and place of voting for representatives; their votes shall be returned by the officers presiding over the election, to the seat of government, addressed to the speaker of the House of Representatives, and on the second day of the session of the general assembly then next to be holden, the members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor, shall be declared duly elected, if such number be a majority of all the votes given, but if no person have such a majority, then from the two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately by ballot the governor. The person having a majority of the votes given for lieutenant governor, shall be the lieutenant governor, and if no person have a majority, then from the two persons having the highest numbers on the list, the general assembly shall in the same manner, choose the lieutenant governor.

Mr. LEDOUX moved as a substitute to the foregoing section, the 2d section of the minority, report, viz, by Mr. LEDOUX:

Section 2d. The governor shall be elected by the qualified electors of the State, at the same time and place where they shall respectively vote for representatives and senators. The returns of every election shall be sealed up, and transmitted to the Secretary of State, who shall deliver them to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly; the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of the general assembly. Contested elections for governor shall be determined by both houses of the legislature, in such manner as shall be prescribed by law.

Mr. LEWIS moved to strike out from the section reported by the majority, from the words "elected" in the 19th line, to the word "governor" in the 24th line.

Mr. SOULE proposed to amend the section reported by Mr. LEDOUX, of the minority, by adding the words "and lieuten-

ant governor," after the word "governor" in the first line.

And pending the discussion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

WEDNESDAY, February 12, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. HINTON opened the proceedings by prayer.

On motion of Mr. RATLIFF, leave of absence was granted Mr. Scott of Feliciana.

Mr. SPLANE, chairman of the committee appointed to inquire into the causes why the official proceedings of the Convention were not regularly published in the papers, submitted the following report and resolution, viz:

"The committee appointed to inquire into the causes why the official proceedings of the Convention were not regularly published in the papers, beg leave to report, that they have fully investigated the facts in relation to the delay in said publications, and find that our Reporter in English is not sufficient to complete the work daily allotted to him. Therefore, be it *Resolved*, that this Convention do now proceed to the election of one additional reporter in English."

Mr. SPLANE moved the adoption of the report and resolution, and the ayes and nays being called for, resulted as follows:

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Downs*, *Dunn*, *Eustis*, *Humble*, *Ledoux*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Waddill* and *Wederstrandt* voted in the affirmative—33 yeas; and

Messrs.—*Auburt*, *Beatty*, *Briant*, *Brumfield*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *O'Bryan*, *Penn*, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Sellers*, *Voorhies*, *Wikoff and Winder* voted in the negative—32 nays;

And Mr. LABAUVE in the chair voted in the minority, made the division equal, consequently the motion was lost.

Mr. VOORHIES having voted with the majority, moved the reconsideration of his vote; which motion was allowed.

Mr. BEATTY then moved that the report and resolution be laid on the table and made the special order of the day, for to-day at two o'clock; which motion prevailed.

Mr. EUSTIS, chairman of the committee of revision, submitted the following report, viz:

"The committee of revision report the first and second sections of the first article of the constitution of Louisiana."

Mr. CONRAD of New Orleans, offered the following resolution, viz:

"Resolved, That the committee on revision be instructed to report the constitution article by article, and that the same be printed under the direction of the committee, in such manner as to exhibit clearly the alterations and corrections made by them."

On motion, said resolution was adopted.

Mr. CONRAD of New Orleans, submitted the following resolution, and the same was adopted, viz:

"Resolved, that Thursday of each week, after the report of the committee of revision has been made and printed, be set aside for the examination of said report."

Mr. KENNER moved to strike out the word "Thursday," and insert in lieu thereof, the word "Saturday;" which motion was lost.

Mr. BEATTY gave notice that he would on Friday next move the reconsideration of the 5th section of article 2d.

ORDER OF THE DAY.

ARTICLE THIRD AS REPORTED BY THE MAJORITY.

SEC. 2d. The citizens entitled to vote for representatives shall vote for a governor and lieutenant governor, at the time and place of voting for representatives. Their votes shall be returned by the officers presiding over the election to the seat of government, addressed to the speaker of the house of representatives, and on the second day of the session of the general assembly then next to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor, shall be declared duly elected, if such number be a majority of all the votes given; but if no person have such a majority, then from the

two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately by ballot the governor. The person having a majority of the votes given for lieutenant governor, shall be the lieutenant governor; and if no person have a majority, then from the two persons having the highest numbers on the list, the general assembly shall, in the same manner, choose the lieutenant governor.

Mr. LEDOUX offered as a substitute for said section, the 2d section of article 3d of the report of the minority, reported by Mr. LEDOUX, viz:

SEC. 2d. The governor shall be elected by the qualified electors of the State, at the same time and place where they shall respectively vote for representatives and senators. The returns of every election shall be sealed up, and transmitted to the secretary of state, who shall deliver them to the speaker of the house of representatives, who shall open and publish them in presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of the general assembly.

Contested elections for governor shall be determined by both houses of the legislature in such manner as shall be prescribed by law.

Mr. LEWIS moved to amend the 2d section of the report of the majority by striking out in the 19th line, the words "if such number be a majority of all the the votes given; but if no person have such a majority, then from the two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately by ballot, the governor."

Mr. MAYO offered the following amendment to the 2d section of the report of the minority, as reported by Mr. LEDOUX, viz:

SEC. 2d. The citizens entitled to vote for representatives shall vote for a governor and lieutenant governor, at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted to the secretary of state, who shall deliver them to the speaker of the house of representatives, and during the first week of the session of the general assembly then next to be holden, the members of the general assembly shall meet in the house of representatives to examine the returns of the election. The person having the highest number of votes for governor, shall be governor; but if two or more shall be equal and highest in votes for governor, one of them shall be chosen governor by the joint vote of the members of the general assembly.

The person having the highest number of votes for lieutenant governor, shall be lieutenant governor; but if two or more persons shall be equal and highest in votes for lieutenant governor, one of them shall be chosen lieutenant governor by the joint vote of the members of the general assembly.

Mr. CHINN moved that the substitutes and amendments be laid on the table, and called for the ayes and nays; which resulted as follows, viz:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquiè*, *Bourg*, *Briant*, *Brumfield*, *Cade*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbès*, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Winchester* and *Winder* voted in the affirmative—43 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Hynson*, *Ledoux*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Taylor* of Assumption, *Waddill* and *Wederstrandt* voted in the negative—24 nays; consequently the motion was adopted.

Mr. MAYO, then offered the following amendment, to be inserted after the last word "representatives," in the first paragraph. "The returns of every election shall be sealed up and transmitted to the secretary of state, who shall deliver them to the speaker of the house of representatives; and during the first week of the session of the general assembly, then next to be holden, the members of the general assembly shall meet in the house of representatives to ex-

amine the returns of the election. The person having the highest number of votes for governor, shall be governor; but if two or more shall be equal and highest in votes for governor, one of them shall be chosen governor by the joint vote of the members of the general assembly.

"The person having the highest number of votes for lieutenant governor shall be lieutenant governor; but if two or more persons shall be equal and highest in votes for lieutenant governor, one of them shall be chosen lieutenant governor by the joint vote of the members of the general assembly."

Mr. LEWIS moved to strike out from the nineteenth line the words, "if such number be a majority of all the votes given; but if no person have such a majority, then from the two persons having the highest numbers on the list of those voted for as governor, the general Assembly shall choose immediately by ballot, the governor," and insert in lieu thereof the words, "but if two or more persons sons shall be equal and highest in the num- of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly."

Mr. DOWNS moved for a division, that is that the Convention first proceed to "strike out," to which Mr. Lewis accorded, and pending the discussion, Mr. Beatty called the attention of the Convention to the order of the day, it being the hour appointed for it.

ORDER OF THE DAY.

The committee appointed to enquire into the causes why the official proceedings of the Convention are not regularly published in the paper, beg leave to report that they have fully investigated the facts in relation to the delay in said publications, and find that one reporter in English is not sufficient to complete work daily allotted to him; therefore, be it resolved, that the Convention do now proceed to the election of one additional reporter in English.

And the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Downs*, *Dunn*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Madison, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the affirmative—34 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Carriere*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion* *Culbertson*, *Derbès*, *Garcia*, *Garret*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *O'Bryan*, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Sellers*, *Winchester* and *Winder* voted in the negative—34 nays; the vote being equally divided, the president voted in the affirmative; the report and resolution was consequenty adopted.

Mr. VOORHIES offered the following resolution, viz:

"*Resolved*, That this Convention shall meet every day, the 22d of February and Sundays excepted, at 11 o'clock a. m., and at 6 o'clock p. m., for the disposal of business, and any member who shall fail to attend at a morning or evening session shall be considered an absentee for that day, and not entitled to his *per diem*."

And the question being called for on the adoption of the above resolution, resulted as follows:

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Covillion*, *Downs*, *Humble*, *McRae*, *Marigny*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Preston*, *Prudhomme*, *Read*, *Scott* of Madison, *Voorhies* and *Waddill* voted in the affirmative—19 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bondouisquié*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Chambliss*, *Chinn*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *Labauve*, *Ledoux*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *Mayo*, *Mazureau*, *Porche*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Wadsworth*, *Wederstrandt*, *Winchester* and *Winder* voted in the negative—49 nays; the motion was lost.

Mr. VOORHIES then offered the following resolution, viz:

"*Resolved*, That this Convention shall meet every day, the 22d February and Sundays excepted, at 10 o'clock a. m., for the disposal of business."

Mr. MAYO moved to reject said resolution, and called for the yeas and nays, and Messrs. *Boudousquie*, *Culbertson*, *Derbes*, *Kenner*, *Labauve*, *Legendre*, *Leonard*, *Mayo*, *Mazureau*, *O'Bryan*, *Porche*, *Prudhomme*, *Ratliff*, *Scott* of Baton Rouge, *Stephens*, *Taylor* of Assumption, *Wadsworth* and *Winchester* voted in the affirmative—18 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Covillion*, *Downs*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Ledoux*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St Landry, *Preston*, *Pugh*, *Read*, *Roman*, *St. Amand*, *Saunders*, *Scott* of Madison, *Sellers*, *Splane*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder* voted in the negative—50 nays; and the motion was lost.

Mr. DUNN then moved that the Convention proceed to the election of an additional English reporter.

Sixty-nine members present.

Mr. WADSWORTH nominated Mr. Corcoran.

Mr. SPLANE nominated Mr. Ilsley.

The PRESIDENT appointed Messrs. Wadsworth and Culbertson tellers.

And on counting the votes it appeared that Mr. Corcoran had obtained 30 votes.

Mr. Ilsley,	37	"
Blank,	2	"
Total,	69	

Mr. Ilsley having obtained thirty-seven votes, was proclaimed by the president as being duly elected reporter in English to the Convention.

On motion the Convention adjourned till to-morrow at 10 o'clock A. M.

NOTE.—Members absent, Mr. Scott of Feliciana, on leave.

THURSDAY, February 13, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the President called upon the Hon. delegate from Sabine, (Mr. STEPHENS) who opened the proceedings by a most fervent prayer.

On motion, leave of absence was granted to Messrs. SELLERS and WINDER, on account of illness.

Mr. VOORHIES submitted the following resolution. viz:

"*Resolved*, that the members of this Convention who shall fail to attend or answer to their names when called by the secretary, at 10 o'clock, a. m., pursuant to the resolution heretofore adopted, shall be considered as absentees, and as such forfeit their *per diem*."

Which motion was lost.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

SEC. "The citizens entitled to vote for representatives, shall vote for a governor and lieutenant governor, at the time and place of voting for representatives; their votes shall be returned by the officers presiding over the election, to the seat of government, addressed to the speaker of the house of representatives, and on the second day of the session of the general assembly then next to be holden, the members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected, if such number be a majority of all the votes given; but if no person have such a majority, then from the two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately, by ballot, tho governor. The person having a majority of the votes given for lieutenant governor, shall be the lieutenant governor; and if no person have a majority, then from the two persons having the highest numbers on the list, the general assembly shall, in the same manner, choose the lieutenant governor."

Mr. LEWIS moved to amend said section by striking out, commencing in the 19th line, the words: "If such number be a majority of all the votes given; but if no person have such a majority, then from the two persons having the highest numbers on the list of those voted for as governor, the general assembly shall choose immediately, by ballot, the governor," and insert in lieu thereof the words "but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor,

The following Statement is to follow the 12th section of the report of the committee to whom was referred the 6th section of article 2d, as reported by the majority, in the proceedings of the 13th of February, 1845; and to face page 56.

STATEMENT BY SUB-COMMITTEE,

SHOWING THE REPRESENTATION OF THE SEVERAL PARISHES, ON THE VARIOUS PRINCIPLES SUBMITTED TO THEM.

PARISHES.	WHITES. Males. Under 20 years.	Males. Over 20 years.	Total White population.	Free persons of color.	Slaves.	Federal numbers.	Total population.	Repr. No. 1746. Repr. on basis of White population.	Repr. No. 2222. Repr. on basis of Federal population.	Repr. No. 190. Repr. on basis of Voters.	Repr. No. 3676. Repr. on basis of Total population.	Voters at Presidential election in 1844.	Federal population, by census of U. S. and Tax Roll of 1843.	Repr. No. 276. Repr. on basis of Votes of 1844.	Repr. No 3636. Repr. on basis of Federal No. by Tax Roll of 1843.
Ascension	661	605	2,255	143	4,553	5,129	6,951	1 ✕509	2—1907	1 ✕115	2—3275	503	5,178	2—227	2—1842
Assumption	1,261	888	4,103	66	2,988	5,061	7,157	2 ✕611	2—2739	2—398	2—3481	569	6,105	2 ✕17	2—2479
Avoyelles	984	696	3,066	68	3,472	5,217	6,606	2—1320	2—1095	1 ✕306	2—2830	553	5,430	2 ✕1	1 ✕1800
Baton Rouge, E.	964	1,131	3,750	182	4,206	6,455	8,138	2 ✕258	2 ✕11	2 ✕251	2 ✕2785	724	6,678	3—172	2—3042
Baton Rouge, W.	390	375	1,371	126	3,179	4,038	4,700	1—1371	1 ✕157	1—375	1 ✕952	313	h,786	1 ✕37	1 ✕150
Bernard, St.	264	356	1,035	65	2,137	2,382	3,237	1—1035	1—2382	1—356	1—3237	269	2,012	1—209	1—2012
Bossier								1	1	1	1	162		1—162	1
Caddo	687	731	2,416	29	2,837	4,147	5,282	1 ✕670	1 ✕925	1 ✕241	1 ✕1604	365	4,136	1 ✕80	1 ✕500
Calcasieu	405	306	1,349	226	482	1,863	2,057	1—1356	1—1861	1—306	1—2057		1,913	1	1—1011
Caldwell	412	321	1,356	14	649	1,759	2,019	1—1349	1—1759	1—321	1—2019	203	1,818	1—263	1—1811
Carroll	303	361	1,146	9	3,083	3,001	4,237	1—1146	1—3004	1—361	1 ✕561	411	h,367	1 ✕135	1 ✕34
Catahoula	836	772	2,935	22	1,958	4,131	4,915	2—1139	1 ✕909	2—282	1 ✕1239	547	h,957	2—271	1 ✕321
Charles, St.	228	215	874	104	3,722	3,211	4,700	1—874	1—3211	1—215	1 ✕1024	138	h,225	1—138	1—3221
Claiborne	1,159	960	3,846	44	2,295	5,267	6,185	2 ✕344	2—2045	2—450	2—2509	571	1,827	2 ✕19	1 ✕1191
Concordia	287	502	1,380	31	8,003	6,212	9,411	1—1380	2—2990	1 ✕102	2—2092	283	4,00	1 ✕7	1 ✕995
De Soto						1	1	1	1	1	1	202		1—202	1
Feliciana, E.	1,081	1,153	3,992	30	7,831	8,720	11,853	2 ✕500	3—2276	2 ✕173	3 ✕825	748	8,727	3—196	2 ✕1452
Feliciana, W.	481	097	2,064	91	8,755	7,408	10,910	1 ✕218	2 ✕964	1 ✕207	3—3558	551	7,27	2—275	2—3635
Franklin						1	1	1	1	1	1	292		1 ✕16	1
Helena, St.	620	426	1,945	7	1,573	2,895	3,525	1 ✕199	1—2895	1—426	1—3525	376	2,870	1 ✕100	1—2870
Iberville	620	733	2,523	85	5,887	6,140	8,495	1 ✕777	2—2918	1 ✕243	2 ✕1143	488	6,196	2—212	2—2860
James, St.	769	664	2,762	75	5,711	6,265	8,548	2—916	2—3043	1 ✕171	2 ✕1196	532	6,286	2—256	2—2656
Jefferson	1,216	1,907	4,866	618	4,086	8,475	10,470	3—1371	3—2031	4—437	3—3128	837	7,862	3 ✕89	2 ✕500
John Baptist, St.	623	485	2,111	191	3,444	4,398	5,776	1 ✕895	1 ✕1176	1—485	2—2100	255	4,431	1—295	1 ✕795
Lafourche Interior	1,221	851	3,986	71	3,246	6,004	7,303	2 ✕494	2—2782	2—361	2—3027	608	6,100	2 ✕50	2—2463
Lafayette	1,422	948	4,474	134	3,233	6,547	7,841	3—982	2 ✕103	2—458	2 ✕189	592	6,775	2 ✕40	2—3139
Landry, St.	2,189	1,639	7,179	925	7,129	12,381	15,238	4 ✕195	4—2715	3 ✕169	4 ✕529	1365	12,809	5—251	4—1901
Livingston	474	375	1,533	43	689	1,989	2,265	1—1533	1—1989	1—375	1—2265	329	1,957	1 ✕53	1—1957
Madison	290	465	1,210	9	3,923	3,572	5,142	1—1210	1 ✕350	1—165	1 ✕1466	104	4,054	1 ✕128	1 ✕428
Martin, St.	1,092	863	3,549	484	4,641	6,817	8,671	2 ✕87	1 ✕73	2—370	2 ✕1322	782	7,178	3—230	2—3542
Mary, St.	641	027	2,366	208	6,286	6,435	8,950	1 ✕620	2—3213	1 ✕137	2 ✕1598	494	0,798	2—218	2—3102
Morehouse						1	1	1	1	1	1	138		1—138	1
Natchitoches	1,988	1,975	7,042	657	6,651	11,689	14,350	4 ✕58	4—2023	4 ✕5	4—3322	1102	11,571	4—274	3 ✕663
Orleans	11,532	23,371	59,519	13,226	23,450	92,815	102,195	34 ✕155	29—2569	17 ✕341	28—2943	5638	83,559	20 ✕118	23—3567
1st Municipality	5,877	10,862	27,904	8,766	11,461	43,546	48,131	16—1711	14—1660	22 ✕82	13 ✕343	2121		8—189	
2d Municipality	2,296	6,857	15,062	1,491	4,470	19,285	21,023	9—1094	6—3125	14—487	6—2643	2723		10—230	
3d Municipality	2,991	4,922	14,652	8,704	5,812	26,443	29,168	8 ✕684	8 ✕1467	10 ✕22	8—3436	701		3—242	
West Bank	368	730	1,901	265	1,705	3,189	3,471	1 ✕155	1—3189	1 ✕210	1 ✕195				
Ouachita	611	029	2,188	11	2,438	3,664	4,610	1 ✕342	1 ✕142	1 ✕139	1 ✕964	312	3,008	1 ✕36	1 ✕272
Plaquemines	295	538	1,351	145	3,385	3,527	4,881	1—1351	1 ✕305	1 ✕48	1 ✕1205	1044	3,560	4—216	4—3560
Pointe Coupée	572	599	2,087	381	5,430	5,726	7,898	1 ✕341	2—2501	1 ✕109	2 ✕546	349	6,418	1 ✕73	2—2782
Rapides	819	1,002	3,243	378	10,511	9,927	14,132	2—1497	3 ✕261	2 ✕22	4—3104	1005	9,972	4—177	3—2709
Sabine						1	1	1	1	1	1	038		2 ✕86	1
Tammany, St.	662	653	2,353	305	1,940	3,852	4,598	1 ✕807	1 ✕600	1 ✕103	1 ✕922	368	3,573	1 ✕02	1—3573
Tensas						1	1	1	1	1	1	265		1—265	1
Terrebonne	651	189	2,075	35	2,300	3,190	4,110	1 ✕329	1 ✕268	1—489	1 ✕734	420	3,680	2—153	1 ✕11
Union	392	282	1,273	2	563	1,612	1,838	1—1273	1—1612	1—282	1—1838	419	1,975	2—143	1—1075
Vermilion							1	1	1	1	1	280		1 ✕4	1
Washington	592	500	1,856	2	791	2,332	2,619	1 ✕110	1—2332	1 ✕10	1—2649	357	2,279	1 ✕81	1—3279
								66—77	90—84	104—73	101—87			101—98	87—77

Representation of First Congressional District.

1. On basis of white population is, ... 26
2. On basis of federal No. per census of 1840, is . . . 24
3. On basis of votes per " " 34
4. On basis of total population, ... 23
5. On basis of votes at presidential election of 1844, . . 16
6. On basis of federal pop. per tax roll of 1843, with 2d district, 38

Of the Second Congressional District,

1. On basis of white population is, ... 23
2. On basis of federal No. per census of 1840, is . . . 20
3. On basis of voters per " " 26
4. On basis of total population, ... 22
5. On basis of votes at presidential election of 1844, . . 25
6. See under First District, ... 00

Of Third Congressional District.

1. On basis of white population, is, ... 21
2. On basis of federal No. per census of 1840, is, . . . 25
3. On basis of voters per " " 19
4. On basis of total population, is, ... 26
5. On basis of votes at presidential election of 1844, . . 25
6. On basis of federal pop. per tax roll of 1843, . . . 21

Of Fourth Congressional District.

1. On basis of white population, is 28
2. On basis of federal No. per census of 1840, is, . . . 29
3. On basis of voters per " " 25
4. On basis of total population, is, ... 30
5. On basis of votes at presidential election of 1844, . . 32
6. On basis of federal pop. per tax roll of 1843, is, . . 27

The Sub-Committee, in explanation of the foregoing Statement, show:—that in all their calculations, whether upon population of whites, total population, federal numbers, or voters, instead of fixing an arbitrary limit to the number of the house, and then ascertaining how this number of representatives should be apportioned among the several parishes,

They adopted the double of the smallest parish as the representative number, and ascertained of how many members the house would be composed, on allowing one member to every parish having at least the half of this number, and one to every other parish for each time this divisor was contained in its population or votes, and one additional member for every fraction exceeding the half of this divisor.

Your Committee have made two calculations on voters, one by considering all the white inhabitants over 20, on the census of 1840, as voters, and the other on the votes polled at the presidential election of 1844. Though neither of those data exhibit with exactness the number of voters in the several parishes, they are the nearest approach to it within their power to obtain.

The Sub-Committee deem that this statement will explain itself sufficiently, by simply remarking, that (—) when placed before a number in the various columns of representatives, signifies that this number is a fraction exceeding the half of the representative number, for which an additional member has been allowed the parish on the same line with it, and that (✕) placed before a number, signifies that this is a fraction under one half of the representative number, and for which the parish is not represented.

That, to the parishes of Bossier, De Soto, Franklin, Morehead, Sabine, Tensas, and Vermilion, one representative each has been allowed on the supposition that they had sufficient population to entitle them to one representative, though they had no means of ascertaining the fact. They further show, that by reducing the representation of Orleans to one-fifth, as resolved on by the committee, and striking off one member each from Lafayette and Natchitoches, which have both been divided since the census on which their calculations are principally based, the basis of white population, taken from the census of 1840, would give a house of 77 members; on federal numbers, of 84; on voters, of 73; on total population, of 87, on votes at presidential election of 1844, of 98; and on federal numbers formed from tax roll of 1843, of 77 members.

All of which is respectfully submitted,

J. C. BEATTY, Chairman of Sub-Committee.

by joint vote of the members of the general assembly."

On motion of Mr. Downs, to strike out, the yeas and nays being called for, resulted as follows:

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Covillion, Culbertson, Downs, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Leonard, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Penn, Porche, Porter, Preston, Prudhomme, Pugh, Ratliff, Read, St. Amand, Saunders, Scott of Baton Rouge, Scott of Madison, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill and Wederstrandt voted in the affirmative —48 ayes; and

Messrs. Boudousquié, Briant, Chinn, Conrad of New Orleans, Claiborne, Derbes, Dunn, King, Labauve, Legendre, O'Bryan, Roman, Taylor of St. Landry and Wikoff voted in the negative—14 nays; the motion was carried.

Mr. Lewis then moved to fill the blank with the words "but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly."

Mr. Preston moved to reject said amendment, which motion was lost.

Mr. Preston then moved to strike out from the 26th line, the words "and if no person have a majority," &c., to the end of the section, and insert in lieu thereof the words "but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor, by joint vote of the members of the general assembly," which motion was adopted.

Mr. Roman moved to strike out, in the 24th line, the word "majority," and insert "the greatest number," which motion prevailed.

Mr. Mayo moved to strike out, from the 30th line, the words "their votes shall be returned by the officers presiding over the elections, to the seat of government, addressed to the speaker of the house of representatives," and insert in lieu thereof the words "the returns of every election shall be sealed up and transmitted by the proper returning officer created by law, to the secretary of state, who shall deliver them to the speaker of the house of representatives," which motion was adopted,

Mr. Lewis then moved the adoption of the section as amended, viz:

The citizens entitled to vote for representatives shall vote for a governor and lieutenant governor, at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted, by the proper returning officer created by law, to the secretary of state, who shall deliver them to the speaker of the house of representatives, and on the second day of the session of the general assembly then next to be holden, the members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly. The person having the greatest number of the votes for lieutenant governor shall be lieutenant governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor, by joint vote of the members of the general assembly; which motion prevailed.

Mr. Saunders, chairman of the committee to whom was referred the 6th section of article 2d, as reported by the majority, with leave, submitted the following report and accompanying documents.

Sections reported by the committee of apportionment:

Sec. 8. Each parish shall be entitled to representation in proportion to its population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States; provided, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives.

Sec. 9. No new parish shall be created with an extent of territory less than four hundred square miles, not with a population less than the full representative number required at the time of its creation, to entitle it to a representative—nor shall any parish

be so divided as to leave it with a smaller area or population than is above expressed.

SEC. 10. In the year 1846, and every tenth year thereafter, a census shall be made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of the federal population in each parish.

SEC. 11. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes, on the basis of the federal population as aforesaid, and in the manner following, to-wit: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor---and any parish having a federal population less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative, and the legislature shall be incompetent to act on any other subject matter, until the apportionment directed by this article shall have been made.

SEC. 12. The first representation under this constitution (ascertained as near may be, in accordance with the above principles,) shall continue until the first apportionment be made by the legislature, and shall be as follows, viz:

The parish of Plaquemines,		1
" St. Bernard,		1
" Orleans,		
First Municipality	6	
Second "	4	14
Third "	4	
" Right Bank,		1
" Jefferson,		2
" St. Charles,		1
" St. John the Baptist,		1
" St. James,		2
" Ascension,		2
" Assumption,		2
" Lafourche Interior,		2
" Terrebonne,		1
" Iberville,		1
" West Baton Rouge,		1
The Parish of East Baton Rouge,		2
" West Feliciana,		2
" East "		2
" St. Helena,		1
" Livingston,		1
" Washington,		1
" St. Tammany,		1
" Point Coupeé,		1
" Concordia,		1
" Tensas,		1
" Madison,		1
" Carroll,		1
" Franklin,		1
" St. Mary,		2
" St. Martin,		2
" Vermillion,		1
" Layfayette,		1
" St. Landry,		4
" Calcassieu,		1
" Avoyelles,		1
" Rapides,		3
" Natchitoches,		2
" Sabine,		1
" Caddo,		1
" De Soto,		1
" Ouachita,		1
" Morehouse,		1
" Union,		1
" Caldwell,		1
" Catahoula,		1
" Claiborne,		1
" Bossier,		1
Total,		76

On motion of Mr. SAUNDERS the said report was laid on the table and made the order of the day for Monday next.

The Convention then resumed the order of the day, viz:

SECTION THIRD OF THE CONSTITUTION OF 1812.

"The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected."

On motion said section was adopted.

Constitution of 1812. Sec. 7. "The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected."

On motion said section was adopted.

Constitution of 1812. Sec. 8. "He shall be commander in chief of the army and navy of this State, and of the militia thereof,

except when they shall be called into the service of the United States, but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general rssembly."

Mr. GRYMES moved to strke out the words "but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general assembly." Which motion prevailed, and the section was adopted as amended.

On motion of Mr. DOWNS, the Convention took up the sections as reported by the majority, and the first in order being, viz:

SECT. . "No person shall be eligible to the office of governor or lieutenant governor, except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States of that portion of territory included in the present limits of the State of Louisiana. Nor shall any person be eligible to either of the said offices who shall not hold, in his own right, landed property situated in said State, of the value of five thousand dollars, agreeably to the tax list, and who shall not have attained the age of thirty-five years, and have been ten years next preceding his election a resident within the State."

Mr. BEATTY moved to strike out all the words in the 3d, 4th, 5th, 6th and 7th lines, viz: "except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States of that portion of territory included in the present limits of the State of Louisiana."

And pending the discussion, Mr. BRENT moved that the Convention adjourn till tomorrow, at 10 o'clock, a. m.; the yeas and nays being called for, (Mr. CLAIBORNE in the chair,) resulted as follows:

Messrs. Aubert, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Ledoux, Leonard, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Penn, Porche, Porter, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, St. Amand, Saunders, Scott of Baton Rouge, Scott of Madison, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill and Wederstrandt voted in favor of the adjournment—52 ayes; and

Messrs. Chinn, Derbes, Garcia, King, Labauve, Legendre, O'Bryan, Roman, Roselius, Taylor of St. Landry, Voorhies and Wikoff voted against the adjournment—12 nays; consequently the same was carried.

NOTE.—Members absent—Messrs. Scott of Feliciana, absent on leave; and Messrs. Sellers and Winder, absent on account of illness.

FRIDAY, February 14, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WARREN opened the proceedings by prayer.

On motion leave of absence was granted to Mr. Chambliss.

Mr. RATLIFF, chairman of the committee on contingent expenses, submitted the following resolution, viz:

"*Resolved*, That the sum of thirty dollars be allowed James Carpenter, sergeant at arms, it being for a months' hire of the yellow man Lèon, up to this date, February 14, 1845."

Which resolution was adopted.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

SEC. "No person shall be eligible to the office of governor or lieutenant governor except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States of that portion of territory included in the present limits of the State of Louisiana; nor shall any person be eligible to either of the said offices, who shall not hold, in his own right, landed property, situated in said State, of the value of five thousand dollars, agreeably to the tax list; and who shall not have attained the age of thirty-five years, and shall have been ten years next preceding his election, a resident within the State."

The debate at the adjournment was on the motion of Mr. BEATTY to strike out from said section the words "except a native citizen of the United States, or an inhabitant, at the time of the cession thereof to the United States, of that portion of the territory included in the present limits of Louisiana."

And pending the discussion, Mr. MCRAE moved that the Convention adjourn till tomorrow at 10 o'clock a. m.

Mr. Voorhies called for the yeas and nays.

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Brazeale, Briant, Cénas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Garrett, Grymes, Guion, Hudspeth, Kenner, Labauve, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, O'Bryan, Penn, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Madison, Soule, Stephens, Taylor of Assumption, Trist, Waddill, Wadsworth, Wederstrandt, Wikoff and Winchester voted for the adjournment—55 yeas; and

Messrs. Brent, Brumfield, Burton, Cade, Carriere, Humble, Legendre, Mazureau, Porter, Splane, Taylor of St. Landry and Voorhies voted against the adjournment—12 nays; consequently the same was carried.

Note.—Members absent, Messrs. Scott of Feliciana, Sellers, Chambliss and Winder, all absent on leave.

Saturday, February 15, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings by prayer.

On motion, leave of absence was granted to Messrs. Scott of Baton Rouge, Read, McCallop and Ratliff.

Mr. Benjamin, member of the committee on contingent expenses, submitted the following resolution, viz:

"*Resolved*, That an appropriation of five hundred dollars be placed at the disposal of the committee on contingent expenses, to be applied so far as it may be necessary to the payment of the costs of extra printing ordered by authority of the Convention.

On motion, the said resolution was adopted.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

Sec. —. No person shall be eligible to the office of governor, or lientenant governor, except a native citizen of the United States, or an inhabitant at the time of cession thereof to the United States, of that portion of territory included in the present limits of the State of Louisiana. Nor shall any person be eligible to either of said offices, who shall not hold, in his own right, landed properted situated in said State, of the value of five thousand dollars, agreeable to the tax list; and who shall not have attained the age of thirty-five years, and have been ten years next preceding his election, a resident within the State.

From which section Mr. Beatty moved to strike out the words of "except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States, of that portion of territory included in the presen limits of the State of Louisiana."

And pending the discussion on said motion, the Convention adjourned till Monday next, at 10 o'clock, a. m.

Note.—Members absent—Messrs. McCallop, Chambliss, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, absent on leave; and St. Amand.

Monday, February 17, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Woolridge opened the proceedings by prayer.

On motion of Mr. Saunders the report of the committee to whom was referred the 6th section of article 3d, and made the order of the day for to-day, was postponed until the section under discussion be disposed of.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

Sec. No person shall be eligible to the office of governor or lieutenant governor, except a native citizen of the United States, or an inhabitant at the time of cession thereof to the United States, of that portion of territory included in the present limits of the State of Louisiana. Nor shall any person be eligible to either of the said offices, who shall not hold, in his own right, landed property situated in said State, of the value of five thousand dollars, agreeably to the tax list; and who shall not have attained the age of thirty-five years, and have been ten years, next preceeding his election, a resident within the State.

To which Mr. Beatty moved to strike

out the words "except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States, of that portion of territory included in the present limits of the State of Louisiana."

Mr. GUION moved that the motion to strike out be laid on the table; and then submitted the following amendment to the said section:

Strike out from the 3d line the words "an inhabitant," and insert "a citizen," and strike out from the 4th, 5th and 6th lines the words "the cession thereof to the United States, of that portion of territory included in the present limits," and insert "the adoption of this constitution."

So that the section as amended would read as follows, viz:

No person shall be eligible to the office of governor, or lieutenant governor, except a native citizen of the United States, or a citizen of the State of Louisiana at the time of the adoption of this constitution.

The president submitted to the Convention a letter of invitation from the secretary of the public schools of municipality number one.

On motion, the Convention adjourned till to-morrow at 10 o'clock a. m.

NOTE.—Members absent, Messrs. Chambliss, Scott of Feliciana, and Sellers, all absent on leave; and Messrs. Ledoux and Porche.

TUESDAY, February 18, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. TWITCHARD opened the proceedings by prayer.

On motion, leave of absence was granted to Messrs. Scott of Madison, and Burton.

Mr. LABAUVE was excused for being absent on yesterday, on account of illness.

On motion of Mr. TAYLOR of Assumption, the vote given on the rule, fixing 10 o'clock, a. m. for the meeting of the Convention, was reconsidered.

On motion, the said rule was rescinded, and the hour of 11 o'clock, a. m., was fixed for the meeting of the Convention.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

SECT. 3. No person shall be eligible to the office of governor or lieutenant governor, except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States of that portion of territory included in the present limits of the State of Louisiana. Nor shall any person be eligible to either of the said offices, who shall not hold in his own right, landed property situated in said State of the value of five thousand dollars, agreeably to the tax list; and who shall not have attained the age of thirty-five years, and have been ten years next preceding his election a resident within the State.

Mr. BEATTY moved to amend said section by striking out the words "except a native citizen of the United States, or an inhabitant at the time of the cession thereof to the United States, of that portion of territory included in the present limits of the State of Louisiana."

Mr. GUION moved to lay said amendment on the table, and called for the yeas and nays.

Mr. WADSWORTH moved to postpone the vote upon said motion, until 1 o'clock, p. m., which motion prevailed.

The next in order came the report of the committee to whom was referred the 6th section of article 2d, and on motion of Mr. Saunders. the same was laid on the table, subject to call.

Mr. CONRAD of New Orleans, then called up the 4th section of article 3d, as reported by the majority, viz:

SECT. 4. The governor shall enter on the discharge of his duties on the second Monday of January, in the year , and shall continue in office until the Monday next preceding the day that his succcssor shall have been declared duly elected, or until his successor shall have taken the oath or affirmation prescribed by this Constitution.

On motion of Mr. PEETS, the word "second" was stricken out, and the word "fourth" inserted in lieu thereof.

Mr. MAYO moved to strike out the word "or," and insert in lieu thereof the word "and;" which motion prevailed.

On motion of Mr. CHINN, the blank in said section was filled with "1846."

Mr. BENJAMIN moved to strike out the words, "or until his successor shall have taken the oath or affirmation prescribed by this Constitution;" which motion was lost.

On motion of Mr. RATLIFF, the vote to fill the blank with "1846," was re-considered.

Mr. RATLIFF then moved to strike out "1846;" which motion prevailed.

Mr. CONRAD of New Orleans, moved to strike out the words, "in the year,"" and insert in lieu thereof the words "next ensuing his election," which motion was adopted.

On motion, the section as amended, was adopted, viz:

SECT. 4. The governor shall enter on the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and his successor shall have taken the oath or affirmation prescribed by this Constitution.

Then the section 5th, of said article, was called up, viz:

SECT. 5. No member of congress or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant governor.

Mr. CHINN offered the following substitute, viz:

"No member of congress or person holding any office under this State, or the United States, or minister of any religious society, shall be elected to the office of governor."

It being 1 o'clock, the hour fixed to vote on the motion of Mr. Guion to lay on the table the motion of Mr. Beatty to strike out, the yeas and nays being called for, resulted as follows, viz:

Messrs. *Aubert*, *Benjamin*, *Bourg*, *Brumfield*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of St. Landry, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—28 ayes; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Briant*, *Cade*, *Carriere*, *Cenas*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Humble*, *Hynson*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Roselius*, *Scott* of Baton Rouge, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the negative—40 nays; consequently the motion was lost.

The ayes and nays were then called for on the motion of Mr. Beatty, to strike out the words, "except a native born citizen of the United States, or an inhabitant at the time of the cession thereof to the United States, of that portion of territory included in the present limits of the State of Louisiana," resulted as follows:

Messrs. *Beatty*, *Brazeale*, *Brent*, *Briant*, *Cade*, *Carriere*, *Cenas*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Humble*, *Hynson*, *Labauve*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Roselius*, *Scott* of Baton Rouge, *Soulè*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill Wederstrandt* and *Wikoff* voted in favor of the motion to strike out—41 ayes; and

Messrs. *Aubert*, *Benjamin*, *Bourg*, *Brumfield*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Garrett*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of St. Landry, *Wadsworth*, *Winchester* and *Winder* voted against said motion to strike out—27 nays; consequently the same was carried.

Mr. BEATTY moved to strike out from said section 3d, and article 3d, the words "nor shall any person be eligible to either of the said offices who shall not hold, in his own right landed property situated in said State, of the value of five thousand dollars, agreeably to the tax list; and."

Mr. DUNN then offered the following substitute, viz: "No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and have been sixteen years a citizen of the United States, and ten years a citizen of the State next preceding his election.

Mr. BRENT submitted the following as a substitute to the substitute of Mr. DUNN, viz:

"Every qualified elector of this State shall be eligible to the office of governor & lieutenant governor."

The PRESIDENT was appealed to, and asked whether the substitute offered by Mr.

Brent to the substitute offered by Mr. Dunn, was in order.

Mr. LABAUVE in the chair, decided that Mr. Brent's substitute was in order, and had the preference.

Mr. DUNN appealed from the decision of the chair.

On the question being put, "shall the decision of the chair be sustained?" the Convention decided that it should not.

On motion of Mr. BEATTY, the substitute offered by Mr. Dunn, was laid on the table, subject to call.

Then the yeas and nays being called for, on the motion of Mr. Beatty, to strike out the words, "nor shall any person be eligible to either of the said offices, who shall not hold in his own right, landed property situated in said State of the value of five thousand dollars, agreeably to the tax list; and,"—resulted as follows:

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Cade*, *Carriere*, *Cénas*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Leonard*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill* *Wederstrandt*, *Wikoff* and *Winder* voted in the affirmative——38 ayes; and

Messrs. *Aubert*, *Benjamin*, *Briant*, *Brumfield*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Legendre*, *Labauve*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Roselius*, *St. Amand*, *Saunders*, *Taylor* of St. Landry, and *Winchester* voted in the negative—28 nays; consequently the motion was carried.

Mr. WINDER moved to amend by striking out from said section the words, "and have been ten years next preceding his election a resident within the State," and insert in lieu thereof the words "and has not been fifteen years a citizen of the United States and of this State."

Mr. DUNN moved for a division, that is that the Convention first proceed to strike out.

Mr. READ submitted the following substitute, "who shall not have attained the age of twenty-one years, and have been two years next preceding his election a resident within the State and a citizen of the United States."

Mr. VOORHIES moved that said substitute be laid on the table indefinitely, and called for the ayes and nays, and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Cade*, *Carriere*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Leonard*, *Lewis*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Penn*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative——52 yeas; and

Messrs. *Brazeale*, *Brent*, *Humble*, *McCallop*, *McRae*, *O'Bryan*, *Porter*, *Preston*, *Read*, *Scott* of Baton Rouge, *Waddill* and *Wederstrandt* voted in the negative—12 nays; consequently the motion was carried.

Mr. BRENT renewed the motion of Mr. DUNN, for a division, that is the Convention first proceed to strike out the word "ten," and called for the yeas and nays.

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Carriere*, *Cénas*, *Chinn*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *O'Bryan*, *Peets*, *Penn*, *Preston*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—40 yeas; and

Messrs. *Cade*, *Claiborne*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Scott* of Baton Rouge, *Sellers*, *Soulé*, *Stephens*, *Trist*, *Voorhies* and *Wederstrandt* voted in the negative—24 nays; the motion was carried.

Mr. KING moved to fill the blank with the words "twenty-one."

Pending the discussion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

NOTE.—Members absent: Messrs. Burton, Chambliss, Scott of Feliciana, and Scott of Madison, absent on leave; and Messrs. Covillion, Ledoux, and Porche.

WEDNESDAY, February 19, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the president called on the honorable delegate from Sabine, Mr. STEPHENS, who opened the proceedings by prayer.

On motion, leave of absence was granted to Messrs. Aubert, Brazeale, Guion and Hynson.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE COMMITTEE.

Sec. 3. "No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and have been —— years next preceding his election a resident in the State."

Mr. O'BRYAN renewed his motion to fill the blank with the word "five."

Mr. WINDER moved to fill the blank in said section with the word "fifteen," and the yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquiè, Bourg, Briant, Brumfield, Cènas, Conrad of Jefferson, Culbertson, Derbes, Garcia, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—29 yeas; and

Messrs. Brent, Cade, Carriere, Claiborne, Downs, Dunn, Garrett, Humble, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Sellers, Splane, Stephens, Trist, Voorhies, Waddill and Wederstrandt voted in the negative—27 nays; consequently the motion was carried.

Mr. PORTER gave notice that he would, on a future day, move the reconsideration of the vote to fill the blank with the word "fifteen."

Mr. WINDER then moved to amend the said section by striking out the words "a resident within the State," and insert after the word "years" the words "and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election;" and the yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cade, Cénas, Chinn, Claiborne, Conrad Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—35 yeas; and

Messrs. Brent, Carriere, Downs, Garcia, Humble, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Sellers, Splane, Stephens, Trist, Waddill and Wederstrandt voted in the negative—23 nays; the motion was adopted.

Mr. LEWIS then moved the adoption of the section as amended.

Mr. DUNN submitted the following substitute, viz:

"No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and have been sixteen years a citizen of the United States, and ten years a citizen of the State next preceding his election."

Mr. WADSWORTH moved that the substitute be laid on the table indefinitely, and called for the yeas and nays, which resulted as follows:

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cenas, Chinn, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Porter, Prudhomme, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff, Winchester and Winder voted in favor of said motion—31 ayes; and

Messrs. Brent, Cade, Carriere, Claiborne, Downs, Dunn, Garcia, Garrett, Humble, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Sellers, Splane, Stephens, Trist, Voorhies, Waddill and Wederstrandt voted against the motion—28 nays; the same was adopted.

Mr. VOORHIES, having voted in the majority, moved to reconsider the vote given to fill the blank with the word "fifteen."

Mr. KENNER moved for the previous question.

The PRESIDENT then put the question, "shall the main question now be put?" and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—30 ayes; and

Messrs. Brent, Cade, Carriere, Downs, Dunn, Garcia, Garrett, Humble, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Sellers, Splane, Stephens, Trist, Voorhies, Waddill and Wederstrandt voted in the negative—28 nays; the motion was adopted.

Mr. LEWIS then moved the adoption of the section as amended, viz:

SEC. 3. "No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election."

The yeas and nays being called for

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Cade, Cénas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester and Winder voted in favor of the adoption—33 yeas; and

Messrs. Brent, Carriere, Downs, Dunn, Garcia, Garrett, Humble, Leonard, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Sellers, Splane, Stephens, Trist and Waddill voted against the adoption—25 nays; the section was adopted.

Mr. MAYO gave notice that he would, on Tuesday next, move the reconsideration of the vote given on the adoption of said section.

Mr. CONRAD of New Orleans, called up the 5th section of article 3d, it being the next in order, viz:

SEC. 5. "No member of congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant governor."

Mr. LEWIS moved that said section be laid on the table until the Convention shall have under consideration the general provisions; the yeas and nays being called for,

Messrs. Brent, Cénas, Culbertson, Derbes, Guion, Humble, Kenner, King, Leonard, Lewis, McRea, Mayo, Mazureau, O'Bryan, Peets, Penn, Prescott of Avoyelles, Preston, Ratliff, Read, Roselius, Saunders, Sellers, Soulé, Splane, Stephens, Taylor of St. Landry, Trist and Waddill voted in the affirmative—29 yeas; and

Messrs. Beatty, Boudousquie, Bourg, Briant, Brumfield, Cade, Carriere, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Downs, Dunn, Garrett, Hudspeth, Labauve, Legendre, McCallop, Marigny, Porter, Prescott of St. Landry, Prudhomme, Pugh, Roman, St. Amand, Scott of Baton Rouge, Taylor of Assumption, Wederstrandt, Winchester and Winder voted in the negative—30 nays; consequently the motion was lost.

Mr. MARIGNY then moved the adoption of the section as reported.

Mr. MCRAE moved to amend by inserting after the word "society" the words "or any attorney or counsellor at law."

Mr. BEATTY moved for the previous question.

The PRESIDENT then put the question, "shall the main question be now put?" and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Boudousquie, Bourg, Briant, Brumfield, Cade, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Garcia, Garrett, Hudspeth, Humble, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, Porter, Prescott of Avoyelles, Prudhomme, Pugh, Roman, Roselius, St. Amand, Scott of Baton Rouge, Sellers, Taylor of Assumption, Taylor of St. Landry, Winchester and Winder voted in the affirmative---37 yeas; and

Messrs. Brent, Carriere, Cenas, Kenner, McRae, Mayo, O'Bryan, Peets, Penn, Prescott of St. Landry, Preston, Ratliff, Read,

Soulé, Splane, Stephens, Trist, Waddill and Wederstrandt voted in the negative---19 nays; the motion was consequently carried.

The yeas and nays were then called for on the motion to adopt the section as reported by the committee, and resulted as follows:

Messrs. Boudousquie, Bourg, Briant, Brumfield, Cade, Carriere, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Garcia, Garrett, Humble, Labauve, Legendre, McCallop, Marigny, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Scott of Baton Rouge, Sellers, Splane, Taylor of Assumption, Wederstrandt and Winder voted in favor of the adoption---37 ayes; and

Messrs. Beatty, Brent, Derbes, Hudspeth, Kenner, King, Lewis, McRae, Mayo, O'Bryan, Peets, Penn, Preston, Splane, Stephens, Taylor of St. Landry, Trist, Waddill and Winchester voted against the adoption---19 nays; consequently the same was adopted.

Mr. Scott of Baton Rouge, submitted the following resolution, viz:

"Whereas, the business of the Convention is from day to day transacted by a bare majority, in consequence of the absence of members, and, whereas, experience has taught the absolute impossibility of securing a proper revision of the constitution in New Orleans,

"Therefore be it *Resolved*, That this Convention will adjourn on the —— day of February, to meet again in the town of Jackson on the —— day of March next."

On motion the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note.—Members absent, Messrs. Aubert, Burton, Chambliss, Brazeale, Hynson, Scott of Feliciana, Scott of Madison, absent on leave, and Messrs. Covillion, Eustis, Grymes, Ledoux and Porche.

Thursday, February 20, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Preston opened the proceedings by prayer.

The president submitted two letters of invitation, one from Major General Lewis, of the first division of the Louisiana militia; and the other from Judge McCaleb, chairman of the committee of arrangements of the public schools of municipality number two, inviting the Convention to attend the celebration of the anniversary of the birth day of the immortal Washington.

On motion, said invitations were accepted.

Mr. Chinn submitted the following notice, viz:

Notice is given, that under the head of general provisions I shall offer a section to the following effect: that from and after the adoption of this constitution, any person or persons being citizens of this State, who shall fight a duel with deadly weapons in the State, or who shall go out of the State for that purpose, or who shall send or receive a challenge to fight a duel with deadly weapons, or who shall act as second to those thus acting, shall be forever disqualified from holding or exercising any office of trust or profit, under this constitution.

Mr. O'Bryan offered the following resolutions, viz:

Resolved, That when the Convention adjourns on Friday the 21st, that it adjourns to meet again in the hall of the house of representatives, on Tuesday the 11th day of March next, at 12 o'clock m.

Resolved, That all *per diem* of members and officers of this Convention, shall be suspended during said adjournment.

Resolved, That on Friday the 21st inst., the Convention return this room, and those accompanying it, to the charge of Mrs. Hawley.

Mr. Dunn moved that the above resolutions be laid on the table indefinitely, and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Brumfield, Carriere, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Humble, Kenner, King, Labauve, Legendre, Leonard, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Porche, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Saunders, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—45 yeas; and

Messrs. Cade, Hudspeth, McRae, O'Bryan, Prescott of Avoyelles, Prescott of St. Landry, Scott of Baton Rouge, Scott of Fe

liciana, and Taylor of St. Landry, voted in the negative—9 nays; the motion was carried.

Mr. DUNN submitted the following resolution, viz:

Resolved, That the Convention meet every day (holidays and Sundays excepted) at 10 o'clock a. m., and adjourn at 3 o'clock p. m., and that no motion to adjourn to any other time shall be adopted unless upon the vote of two-thirds of the members present; provided it shall be in order to adjourn the Convention to some place out of the city of New Orleans, by a majority of votes, on three days previous notice being given.

Mr. BRENT offered the following substitute, viz:

Resolved, That from and after this date, no leave of absence shall be granted to any member, except on account of sickness; and in no case shall any absentee be allowed his *per diem*, unless he shall have previously obtained leave of absence in accordance with this resolution.

Mr. KENNER moved to lay the resolution and substitute on the table indefinitely, and the yeas and nays being called for, resulted as follows:

Messrs. Beatty, Benjamin, Bourg, Briant, Brumfield, Cade, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Garcia, Garrett, Hudspeth, Humble, Kenner, King, Labauve, Legendre, Leonard, Lewis, McCallop, McRae, Marigny, O'Bryan, Porche, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—49 yeas; and

Messrs. Brent, Carriere, Dunn, Mayo, Peets, Penn and Porter voted in the negative—7 nays; consequently the motion was adopted.

Mr. SCOTT of Baton Rouge, called up the resolution submitted by him on yesterday, viz:

"Whereas the business of the Convention is from day to day transacted by a bare majority, in consequence of the absence of members; and whereas experience has taught the absolute impossibility of securing a proper revision of the constitution in New Orleans. Therefore be it

"*Resolved*, That this Convention will adjourn on the day of February to meet again in the town of Jackson on the day of March next," and moved that it be laid on the table subject to call.

Mr. VOORHIES moved that the said resolution be laid on the table indefinitely, and called for the yeas and nays; and

Messrs. Beatty, Benjamin, Bourg, Briant, Brumfield, Cade, Carriere, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Garcia, Garrett, Hudspeth, Humble, Kenner, King, Labauve, Legendre, Lewis, Mayo, Mazureau, Penn, Porche, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Roman, St. Amand, Saunders, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wederstrandt, Winchester and Winder voted in the affirmative—45 yeas; and

Messrs. Dunn, Leonard, McCallop, McRae, Marigny, O'Bryan, Peets, Porter, Prescott of Avoyelles, Read, Scott of Baton Rouge, Scott of Feliciana, Waddill and Wikoff voted against the motion—14 nays; the same was carried.

Mr. TAYLOR of Assumption, submitted the following additional rule, viz:

"The yeas and nays shall not be taken on any question, unless ten members rise to support the call for them."

On motion of Mr. RATLIFF, chairman of the committee on contingent expenses, Mr. Roselius was appointed an additional member to the said committee.

This being the day fixed for the consideration of the report of the committee of revision, Mr. Lewis called up the section 1st of article 1st, as reported by the committee of revision, viz:

ARTICLE FIRST, AS REPORTED BY THE COMMTITEE OF REVISION.

SEC. 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them to be confided to a separate body of magistracy, to-wit: those which are legislative to one, those which are executive to another, and those which are judicial to another.

On motion, said section was adopted.

SEC. 2. No person holding office in one of these departments, shall exercise any powers properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

On motion of Mr. BENJAMIN the said section was re-committed to the committee of revision.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

SEC. 6. The governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures, after conviction. In cases of treason he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

On motion, said section was adopted.

SEC. 7. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

On motion, said section was adopted.

SEC. 8. In case of the impeachment of the governor; his removal from office, death, refusal to qualify, resignation or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, death, resignation or inability, both of the governor and lieutenant governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed or a governor shall be elected.

On motion of Mr. CENAS the words "and duly qualified," were added at the end of the section.

On motion of Mr. MAYO the word "of" inserted after the word "both," was inserted before said word.

On motion of Mr. CONRAD of New Orleans, the words "or inability," were inserted after the word "refusal."

Mr. SAUNDERS moved to add at the end of the section, the words "at the time appointed by the legislature for the residue of the term," which motion was adopted.

On motion of Mr. DOWNS the words "or a governor shall be elected" were stricken out, and the words "or for the residue of the term" were inserted in lieu thereof.

On motion, the section was adopted as amended, viz:

SEC. 8. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the power and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, the impeachment, death, resignation, disability or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed or for the residue of the term.

SEC. 9. The lieutenant governor or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he continued in office.

On motion, said section was adopted.

SEC. 10. The lieutenant governor shall by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate, for that occasion.

Mr. TAYLOR of Assumption, moved to amend said section by striking out the words "but shall have only a casting vote therein," and insert in lieu thereof the words "have a right when in committee of the whole, to debate and vote on all subjects, and when the senate are equally divided to give the casting vote."

Mr. CONRAD of New Orleans, moved to amend by inserting the words "shall have the right of participation in the debates."

Mr. BOUDOUSQUIE moved that both amendments be laid on the table indefinitely, which motion prevailed.

Mr. READ moved to amend by striking out at the end of the section, the words "the occasion," and insert in lieu therof, the words "the time being," which motion prevailed.

Mr. DOWNS moved to amend said section by inserting after the words "by virtue of his office," the words "secretary of state."

Mr. BENJAMIN moved to lay the said amendment on the table indefinitely, and the yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Brent, Briant, Cade, Cènas, Chinn, Derbes, Dunn, Garrett, Hudspeth, Kenner, King, Labauve, Legendre, Leonard, Lewis, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Prescott of Avoyelles, Roman, Roselius, St. Amand, Sellers, Soulé, Splane, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in favor of the motion—38 yeas; and

Messrs. Claiborne, Conrad of New Orleans, Downs, Humble, McCallop, Porter, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Raton Rouge, Scott of Feliciana, Taylor of Assumption, and Waddill voted against the motion—15 nays; the same was carried.

Mr. Marigny moved the adoption of the section as amended, viz:

Sec. 10. The lieutenant governor shall by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate, for the time being.

Which motion prevailed.

On motion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note.—Members absent, Messrs. Aubert, Brazeale, Burton, Chambliss, Guion, Hynson and Scott of Madison, absent on leave; and Messrs. Covillion, Ledoux and Eustis.

Friday, February 21, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, at the request of the president, the Hon. delegate from Sabine (Mr. Stephens) opened the proceedings by prayer.

Mr. Roselius moved that the Convention accept the invitation and attend in a body the Examination of the Public Schools in Municipality No. 1, which motion prevailed.

Mr. Taylor of Assumption called up the rule offered by him on yesterday, and moved the adoption of the same, viz:

"The yeas and nays shall not be taken on any question, unless ten members rise to support the call for them."

Mr. Scott of Baton Rouge moved that the same be laid on the table subject to call, which motion was lost.

Mr. Ratliff moved that the Convention adjourn till Monday next at 11 o'clock, a.m., which motion was lost.

Mr. Benjamin moved that said rule be laid on the table and made the special order of the day for Monday next, immediately after the reading of the journal, which motion prevailed.

On motion, the Convention adjourned till Monday next at 11 o'clock, a. m.

Note—Members absent: Messrs. Aubert, Brazeale, Burton, Chambliss, Guion, Hynson and Scott of Madison, absent on leave; Messrs. Boudousquié, Culbertson, Downs, Dunn, Eustis, Garcia, Grymes, Labauve, Ledoux, Porche, Preston, Prudhomme, St. Amand, Wadsworth, Wikoff and Winchester.

Monday, February 24, 1845.

The convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings by prayer.

On motion Messrs. Garcia, Soulé and Briant were excused from attendance on account of sickness; and leave of absence was granted to Messrs. Splane, Pugh, Cade, McRae and Lewis.

Mr. Taylor of Assumption, moved that the Convention adjourn till to-morrow at 11 o'clock a. m. for want of a quorum, which motion was lost.

Mr. O'Bryan submitted the following resolution, viz:

"*Resolved*, That from and after the 15th day of March next, the Convention will grant no leave of absence to any member, unless in case of sickness of the member or some one of his family."

Mr. Winder moved to lay the resolution on the table indefinitely, and the yeas and nays being called for, resulted as follows:

Messrs. *Beatty*, *Bourg*, *Brumfield*, *Cenas*, *Dunn*, *Hudspeth*, *King*, *Legendre*, *Leonard*, *McCallop*, *Mazureau*, *Porche*, *Prescott* of Avoyelles, *Prudhomme*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry and *Winder* voted in the affirmative—22 yeas; and

Messrs. *Brent*, *Carriere*, *Covillion*, *Derbès*, *Downs*, *Garret*, *Hynson*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of St. Landry, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Trist*, *Voorhies*, *Waddill*, *Wederstrandt* and *Wikoff* voted in

the negative—22 nays; the vote being equally divided, the president voted in the negative, the motion was consequenty lost.

Mr. Beatty moved to amend by striking out the "15th of March," and insert in lieu thereof the words "the 24th day of February."

Mr. Dunn moved that the resolution and amendment be laid on the table till to-morrow, which motion was lost.

On the question of order, the president decided that this resolution was out of order, inasmuch as the rule offered Friday, by Mr. Taylor of Assumption, was made the special order of the day for to-day, immediately after the reading of the journal.

Mr. Taylor of Assumption, called up the rule offered by him, and made the special order of the day for to-day, viz:

"The yeas and nays shall not be taken on any question, unless ten members rise to support the call for them."

Mr. Marigny moved for the adoption of the rule, and called for the yeas and nays:

Messrs. *Beatty, Benjamin, Bourg, Brumfield, Cenas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Porche, Roman, Roselius, St. Amand, Saunders, Taylor* of Assumption, *Trist, Voorhies* and *Winder* voted in the affirmative—26 yeas; and

Messrs. *Brent, Carriere, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Leonard, McCallop, Mayo, O'Bryan, Peets, Penn, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers, Stephens, Taylor* of St. Landry, *Waddill, Wederstrandt* and *Wikoff* voted in the negative—29 nays; consequently the motion was lost.

ORDER OF THE DAY.

ARTICLE THIRD AS REPORTED BY THE MAJORITY.

Sec. 11. "While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more."

Mr. Marigny moved to amend by striking all the words of the first line, moreover the words, "the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more," and insert in lieu thereof the words "a compensation shall be fixed by the legislature."

Which motion was lost.

On motion, the said 11th section, as reported, was adopted, viz:

Sec. 11. "While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more."

The 12th section was then called up, viz:

Sec. 12. "A secretary of state shall be appointed and commissioned, to hold his office during the pleasure of the governor. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings of the governor, and when necessary shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law."

Mr. Claiborne moved to strike out the words "during the pleasure of the governor," and insert in lieu thereof the words "during the term for which the governor shall have been elected, if he shall so long behave himself well."

Mr. Conrad of New Orleans, moved to amend the amendment, by striking out the words "if he shall so long behave himself *well*;" which amendment was accepted by Mr. Claiborne.

And on motion, the amendment as amended, was adopted.

Mr. Peets offered the following substitute, viz: "a secretary of state shall be elected by the qualified electors of the State at large, at the same time of the election for governor, and shall hold his office during the term for which the governor shall have been elected.

Mr. Taylor of Assumption, moved that the said substitute be postponed until the Convention take up the judiciary department; which motion was lost.

And the yeas and nays being called for, on the adoption of the substitute, resulted as follows:

Messrs. *Brent, Brumfield, Carriere, Covillion, Downs, Garrett, Humble, McCallop, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prudhomme, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens, Taylor* of Assumption, *Trist, Waddill* and *Wederstrandt* voted in the affirmative—26 yeas; and

Messrs. *Benjamin, Boudousquiè, Bourg, Cénas, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbès, Dunn, Eustis, Grymes, Hudspeth, Hynson, King, Labauve, Legendre, Leonard, Marigny, Mazureau, Prescott* of St. Landry, *Preston, Roman, Roselius, St. Amand, Sellers, Taylor* of St. Landry, *Voorhies, Wadsworth, Wikoff* and *Winchester* voted in the negative—30 nays; consequently the substitute was lost.

Mr. Porter then submitted the following substitute, for the whole section, viz:

"A secretary of State shall be appointed by joint vote of the general assembly, and commissioned during the term of four years; he shall keep a register of all the official acts and proceedings of the governor, and shall when required lay the same and papers, minutes and official vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined by law.

The yeas and nays being called for on the adoption of said substitute, resulted as follows:

Messrs. *Culbertson, McCallop, Peets, Porter, Ratliff* and *Waddill* voted in favor of said substitute; and

Messrs. *Boudousquiè, Bourg, Brent, Briant, Brumfield, Carriere, Cénas, Conrad* of New Orleans, *Covillion, Derbes, Downs, Dunn, Eustis, Garrett, Grymes, Hudspeth, Humble, Hynson, King, Labauve, Legendre, Leonard, Marigny, Mayo, Mazureau, O'Bryan, Penn, Porche, Prescott* of Avoyelles, *Prescott* of St Landry, *Preston, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Voorhies, Wadsworth, Wederstrandt, Wikoff* and *Winchester* voted against the adoption of said substitute—47 nays; the same was lost.

Mr. Roman moved to amend said section by inserting after the word "shall" the words, "be nominated and appointed by the governor with the advice and consent of the senate," which amendment was adopted.

On motion, the section as amended, was adopted, viz:

Sect. 12. A secretary of state shall be nominated and appointed by the governor, with the advice and consent of the senate, and commissioned to hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings of the governor, and when necessary shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

On motion, the Convention adjourned, till to-morrow, at 11 o'clock, a. m.

Note.—Members absent: Messrs. Aubert, Brazeale, Briant, Burton, Cade, Chambliss, Garcia, Guion, Lewis, McRae, Pugh, Scott of Madison, Soulé, and Splane, all absent on leave; and Messrs. Chinn and Ledoux.

Tuesday, February 25, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Stanton opened the proceedings by prayer.

Mr. Saunders gave notice that he would on a future day, move the re-consideration of the vote given on yesterday, making the secretary of state elective.

This being the day fixed for the reconsideration of the vote given on the adoption of the 3d section of the executive department, on motion of Mr. Mayo, the reconsideration was postponed until Tuesday next, the 4th day of March.

Mr. Eustis, chairman of the committee of revisal, submitted the following report, viz:

ARTICLE FIRST, AS REPORTED BY THE COMMITTEE OF REVISAL.

Sect. 2. No one of these departments nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

On motion of Mr. Downs, said report was ordered to be printed.

The next in order came the following resolution, offered on yesterday by Mr. O'Bryan, viz:

"*Resolved*, That from and after the 15th day of March next, the Convention will grant no leave of absence to any member, unless in case of sickness of the member or some one of his family.

On motion of Mr. BEATTY, the words "15th of March" were stricken out, and the words "25th of February" were inserted in lieu thereof.

The ayes and nays were then called for on the motion to adopt said resolution as amended, and resulted as follows:

Messrs. *Beatty, Benjamin, Brent, Brumfield, Carriere, Chambliss, Claiborne, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Legendre, Marigny, Mazureau, O'Bryan, Peets, Porche, Porter, Prudhomme, Roman, Roselius, Saunders, Sellers, Trist, Voorhies* and *Wederstrandt* voted in the affirmative —28 ayes; and

Messrs. *Bourg, Briant, Burton, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Dunn, Hudspeth, Kenner, King, Labauve, Leonard, McCallop, McRae, Mayo, Penn, Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff, Read, St. Amand, Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Waddill, Wikoff*, and *Winder* voted in the negative—31 nays; consequently said resolution was rejected.

ORDER OF THE DAY.

ARTICLE THIRD, AS REPORTED BY THE MAJORITY.

Constitution of 1812. Section 9. "He shall nominate and appoint, with the advice and consent of the senate, judges, sheriffs, and all other officers whose offices are established by this constitution, and whose appointments are not herein otherwise provided for: *Provided*, however, that the legislature shall have a right to prescribe the mode of appointment to all offices to be establishad by law.

Mr. HUMBLE moved to amend said section, by striking out the words "judges, sheriffs, and other."

Mr. DUNN moved for a division; that is, the Convention first proceed to strike out the word "judges;" which motion prevailed.

The yeas and nays were then called for on the motion to strike out the word "judges," and

Messrs. *Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff, Read, Saunders, Scott* of Baton Rouge *Stephens, Taylor* of Assumption, *Trist, Waddill* and *Wederstrandt* voted in favor of said motion—30 yeas; and

Messrs. *Bourg, Briant, Cénas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garrett, Hudspeth, Kenner, King, Labauve, Legendre. Marigny, Mazureau, Prudhomme, Roman, Roselius, St. Amand, Scott* of Feliciana, *Sellers, Taylor* of St. Landry, *Voorhies, Wikoff and Winder* voted against said motion—28 nays; consequently the same was carried.

The ayes and nays were then called on the motion to strike out the word "sheriffs," and

Messrs. *Bourg, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Conrad* of New Orleans, *Covillion, Culbertson, Derbes, Downs, Dunn, Garrett, Humble, Hynson, Kenner, Ledoux, Leonard, McCallop, M'Rae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers, Stephens, Taylor* of Assumption, *Trist, Voorhies, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—43 yeas; and

Messrs. *Cénas, Claiborne, Conrad* of Jefferson, *Eustis, Hudspeth, King, Labauve, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand* and *Taylor* of St. Landry voted in the negative—14 nays; the motion was adopted.

Mr, TAYLOR, of Assumption, moved to amend by striking out the words "Provided however, that," and insert at the end of the section the words "Provided they shall not be elected by the general assembly, or by either of the two houses."

Mr. PORTER moved to lay the amendment and proviso on the table, which motion was lost.

Mr. TAYLOR, of Assumption, then moved the adoption of the amendment and proviso, which motion was lost.

On motion, the section was adopted as amended, viz:

SEC. 9. CONST. 1812. "He shall nominate and appoint, with the advice and con-

sent of the senate, all officers, whose offices are established by this constitution, and whose appointments are not herein otherwise provided for: Provided, however, the legislature shall have the right to prescribe the mode of appointment to all other offices to be established by law."

The convention then called up section 10, "of the constitution of 1812" viz:

SEC. 10. The governor shall have power to fill up vacancies that may happen during the recess of the legislature, by granting commissions which shall expire at the end of the next session."

On motion the same was adopted.

Section 12, of the constitution of 1812, viz:

SEC. 12. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

On motion said section was adopted.

Section 13, of the constitution of 1812.

SEC. 13. He shall from time to time give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient,

On motion said section was adopted.

Section 14 of the constitution of 1812.

SEC. 14. He may on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become dangerous from an enemy, or from contagious disorders; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

Mr. PORTER moved to amend by inserting after the word "assembly," in the second line, the words "or continue their session for a period not exceeding thirty days," which motion was lost.

On motion, the section 14 of the constitution of 1812, was then adopted as reported, viz.:

SECT. 14. He may on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy, or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such a time as he may think proper, not exceeding four months.

Section 15th of the constitution of 1812, viz:

SECT. 15. "He shall take care that the laws be faithfully executed."

On motion, said section was adopted.

Section 20th of the constitution of 1812, viz:

SECT. 20. "Every bill which shall have passed both houses, shall be presented to the governor; if he approve he shall sign it, if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journal, and proceed to reconsider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days, (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment, prevent its return—in which case it shall become a law, unless sent back within three days after their next meeting.

Mr. Mayo moved to amend said section by inserting "three-fifths" instead of two-thirds, of the members elected.

On motion of Mr. Conrad of New Orleans; said amendment was laid on the table indefinitely.

Mr. MAYO then moved to amend said section by striking out the words "unless sent back within three days after their next meeting," and insert in lieu thereof the words "in which case it shall not be a law." Which motion was lost.

On motion the section was adopted, viz:

Constitution of 1812. Sec. 20. "Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, if not, he shall return it, with his objections, to the house in which it shall have originated, who shall

enter the objections at large upon their journal, and proceed to re-consider it; if, after such re-consideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house by which it shall be likewise re-considered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and againnst the bill shall be entered on the journal of each house respectively. If any bill shall be returned by the governor within ten days, (Sundays excepted,) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return, in which case it shall be a law unless sent back within three days after their next meeting."

Section 21st of the constitution of 1812, viz:

Sec. 21. "Every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be re-passed by two-thirds of both houses."

On motion, said section was adopted.

Section 22d, of the constitution of 1812, viz:

Sec. 22. "The free white men of this State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services."

On motion said section was adopted.

Section 23d of the constitution of 1812, viz:

Sec. 23. "The militia of this State shall be organized in such manner as may be hereafter deemed most expedient by the legislature."

On motion, said section was adopted.

On motion of Mr. Conrad of New Orleans, the vote on the adoption of the 10th section of the constitution of 1812 was re-considered, and said section amended as follows: to insert in lieu of the word "legislature," the word "Senate;" and on motion of Mr. Downs, were added at the end of the section the words "unless otherwise provided for in this constitution."

On motion, said section was adopted as amended, viz:

Constitution of 1812. Sec. 10. "The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of the next session, unless otherwise provided for in this constitution."

Mr. Ledoux submitted an additional section, the 21st section of the minority report made by Mr. Ledoux, viz:

Sec. 21. "There shall be appointed by the governor, with the advice and consent of the senate, an auditor of state, whose duty it shall be to examine and approve all accounts before they are paid by the treasurer. He shall assist the legislature in examining the accounts of the treasurer; and perform all other duties which may be required of him by law."

On motion of Mr. Conrad of New Orleans, said section was laid on the table subject to call.

Mr. Downs moved to take up the report of the legislative committee, which motion prevailed.

On motion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note.—Members absent, Messrs. Garcia and Soulé absent on account of illness; Messrs. Aubert, Brazeale, Cade, Guion, Pugh, Scott of Madison and Splane absent on leave; Messrs. Chinn, Boudousquie, Grymes and Preston were not in their seats.

Wednesday, February 26, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings by prayer.

On motion, Mr. Covillion was excused from attendance on account of illness.

ORDER OF THE DAY.

ARTICLE SECOND OF THE MAJORITY REPORT AS AMENDED.

Sect. 6. Representation shall be equal and uniform in this State, and beyond that, if entitled to any more, in proportion to the population of each, ascertained and calculated according to the principle of representation adopted in the Constitution of the United States.

The first representation under this constitution shall continue until after the next United States census in 1850, and shall be as follows:

The parish of	Plaquemines shall have	1
"	St. Bernard,	1
"	Orleans,	
	First Municipality, 5	
	Second " 4	12
	Third " 3	
That part of the parish of Orleans on the East bank of the Mississippi,		1
The parish of	Jefferson,	2
"	St Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	1
"	Assumption,	2
"	Lafourche Interior,	3
"	Terrebonne,	1
"	Iberville,	1
"	West Baton Rouge,	1
"	East " "	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	1
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	2
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	72

As soon as may be, after the United States census of 1850 shall have been taken and promulgated, and every ten years thereafter, the number of representatives shall be fixed and apportioned, according to the principles of this section, so as not to be less than seventy nor more than one hundred, and whenever a new parish shall be created, a separate representation shall at the same time be provided for it, which shall continue until the next decimal apportionment.

Mr. SAUNDERS, chairman of the committee to whom was referred the said section, submitted the following report, as a substitute for the same, viz:

SEC. 6. Each parish shall be entitled to representation in proportion to its population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States; *Provided*, that no parish or city shall ever be en entitled to more than one-fifth of the whole number of representatives.

SEC. 7. No new parish shall be created with an extent of territory less than 400 square miles, nor with a population less than the full representative number required at the time of its creation, to entitle it to a representative; nor shall any parish be so divided as to leave it with a smaller area or population than is above expressed.

SEC. 8. In the year 1846, and every tenth year thereafter, a census shall be made of the population of this State, in such a manner as shall be prescribed by law, for the purpose of ascertaining the number of the federal population in each parish.

SEC. 9. At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the federal population, as aforesaid, and in the manner following, to wit: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor; and any parish

having a federal population less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter, until the apportionment directed by this article shall have been made.

Sec. 10. The first representation under this constitution (ascertained as near as may be, in accordance with the above principles,) shall continue until the first apportionment be made by the legislature, and shall be as follows, viz:

The parish of	Plaquemines,		1
"	St. Bernard,		1
"	Orleans,		
	First Municipality	6	
	Second "	4	14
	Third "	4	
"	Right Bank,		1
"	Jefferson,		2
"	St. Charles,		1
"	St. John the Baptist,		1
"	St. James,		2
"	Ascension,		2
"	Assumption,		2
"	Lafourche Interior,		2
"	Terrebonne,		1
"	Iberville,		2
"	West Baton Rouge,		1
"	East Baton Rouge,		2
"	West Feliciana,		2
"	East "		2
"	St. Helena,		1
"	Livingston,		1
"	Washington,		1
"	St. Tammany,		1
"	Point Coupeé,		1
"	Concordia,		1
"	Tensas,		1
"	Madison,		1
"	Carroll,		1
"	Franklin,		1
"	St. Mary,		2
"	St. Martin,		2
"	Vermillion,		1
"	Layfayette,		1
"	St. Landry,		4
"	Calcasieu.		1
"	Avoyelles,		1
"	Rapides,		3
"	Natchitoches,		2
"	Sabine,		1
"	Caddo,		1
"	De Soto,		1
"	Ouachita,		1
"	Morehouse,		1
"	Union,		1
"	Caldwell,		1
"	Catahoula,		1
"	Claiborne,		1
"	Bossier,		1
		Total,	76

Mr. Marigny moved that the whole matter be laid on the table, and made the special order of the day for to-morrow at 12, m., which motion was lost.

Mr. O'Bryan submitted the following as a substitute to the first section of the report, viz:

"Each parish shall have one representative, and beyond that if entitled to any more, in proportion to the number of voters in each; *Provided*, that no parish or city shall ever have more than one-sixth of the whole number of representatives."

On a question of order, the president decided said substitute to be out of order.

Mr. O'Bryan then moved to amend said section by striking out the words "its population ascertained and calculated according to the principle of representation adopted in the constitution of the United States."

And, pending the discussion on said motion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note—Members absent: Messrs. Covillion, Garcia and Soulé, absent on account of illness; Messrs. Aubert, Brazeale, Cade, Guion, Lewis, Pugh, Scott of Madison and Splane, absent on leave.

Thursday, February 27, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Goodrich opened the proceedings by prayer.

On motion, Mr. Chinn was excused for non-attendance, on account of illness.

Mr. Mayo, chairman of the committee on education, submitted the following report and resolutions, viz:

"As it is through the medium of education that the intellectual faculties of man are cultivated, and his physical and mental powers regulated and perfected, the subject would appear to justify as much attention and care as any other that can engage the attention of the legislator.

"This State has for many years acted with a degree of liberality, in making ap-

propriations for the errection and support of colleges and academies, and for the education of indigent children.

"By the report of the State treasurer, dated 11th January, 1844, it appears that the sum of $1,710,559 40-100, from the year 1812 to the 31st December, 1844, has been expended by the State for the support of public schools, colleges, academies, seminaries and asylums; and by the same report it appears that $463,791 71-100, which is more than one-fourth of the whole sum, has been expended for the building and support of the colleges of Louisiana and Jefferson. The first of which is not now in operation; and owing to the want of a regular system of education, has not produced results that ought to have been expected from so large an amount of expenditure.

"The college of Jefferson is in operation, and has seventy or eighty students, as appears from the report of the committee of of the house of representatives on the subject of education, lately made to that body.

"The annual appropriation for that institution being $10,000, the annual expenditure for each student, supposing the number to be eighty, is $125, paid by the State, in addition to all the expenses of tuition, board, &c., which is paid by individuals.

"These facts are stated for no other purpose than to bring to view the disproportion in the expenditure, and actual waste of public money for want of a well regulated system of education.

"A large portion of the State is in a situation, in relation to schools, which is truly to be lamented; produced by various causes, some of which are peculiar to local situations where the population is extremely sparce, rendering it impracticable to support schools in the nighborhood, for want of a sufficient number of children to attend them without sending them from home to board, which many persons of large families either have not the means to do, or if they have, are not disposed to appropriate them for that purpose, in other neighborhoods where schools could be supported if the people desired. No interest or zeal appears to be felt on the subject, and children are permitted to grow up in ignorance, for want of a disposition on the part of the parent to educate them. The money that has been expended for the support of schools has in many, if not a majority of the parishes, failed to produce the beneficial results which were intended. Incompetent men have been employed as teachers, whose object has been to get the public money, more than to improve the children under their care; and when the public money, to which a school has been entitled, has been exhausted, the schools in many instances have been broken up, and no more taught in the neighborhood until another supply of money has been expected from the State to pay the teacher.

"Owing to facts like these, the children that have occasionally attended the schools have received, in many places, but little benefit from them. One of the causes of the failure in the expenditure of the funds of the State, distributed to the parishes generally, has been that indigent children only have been entitled to the benefits of the public funds. Men of the high sentiments and noble feelings that characterize the citizens of this State feel a repugnance at the thought of educating their children by the use of a fund that none but the poor and needy can be partakers of. Hence it is believed that many persons, unable to educate their children at their own expense, have too much pride and feel that it would be humiliating to themselves and their children to partake of a bounty thus offered. When the fact of partaking furnishes of itself evidence of their poverty and indigence; and though this may to some extent arise from false pride, still the fact exists, and the effect is the same as though the objection were a good one. Another cause of the failure has been that large expenditures have been made for building colleges and academies for the promotion of the higher branches of literature, before providing the means for teaching the first rudiments of a common education.

"The necessary steps ought first to be taken to place within the reach of the mass of the children throughout the State, such an education as will fit them for the higher branches, and in such a manner as to place all on an equal footing in the enjoyment of the benefits to be derived from the funds of the State. This would create a laudable ambition between those whose progress and advancement would fit them for the higher schools; and thus the higher as well as the lower would be supported. The

progress of the child in the acquisitition of a substantial education, would emulate the parent; parents would encourage each other; and when the spirit of education could be fairly put into operation, it is believed that it would here, as it has done in many of the States of the United States, and in Prussia and Germany, carry with it public opinion, which in this country is all that is necessary to sustain any measure that promises to be permanently useful.

"The people must see and feel the importance of the subject, the necessity of action. The subject must receive their approbation; excite their interest and zeal; they must act together with their influence and money to carry it into operation. The public mind in this State has never been sufficiently aroused to the importance of educating the youth. Any system that may be organised, not calculated to inlist the feelings and receive the cordial approbation and support of a majority of the citizens, cannot be relied upon to effect the object desired, viz: that of furnishing to the greatest number of the rising generation, upon equal terms, the best education that the resources of the State, and of its citizens generally, will justify.

"To overcome these difficulties would require a system more in detail, that it would be proper to incorporate into the constitution, and which would often have to be changed and improved, as circumstances and observation might require.

"Provision ought to be made by the State for as large a fund for immediate use as its financial condition will permit, and also for a permanent fund for future use, large enough if possible to afford the means to all the children in the State of obtaining a knowledge of reading, writing and arithmetic; branches which are indispensably necessary to every citizen in his intercourse with his fellow man and with the world.

"Your committee have, by a provision which they report herewith, endeavored to lay the foundation for a permanent fund, which will have the power of increase within itself; to meet the increase of children and of expenditure that improvements may require, as will be seen by the provisions reported.

"A provision is also contained in the report providing for the appointment of a superintendent of education; the object of which is to secure an efficient officer whose sole business shall be to attend to the duties of that office, and who shall constitute the head of an organized school department of the State. By another section it is made the duty of the legislature to encourage the institution of common schools throughout the State, for the promotion of literature and the arts and sciences, and to provide means for their support. By enjoining the encouragement and support of education upon the legislature, it will be part of the duty which every member of that body will be sworn to perform, to give it attention.

"The cultivation of the mental faculties for the promotion of wisdom, morality and virtue, is amongst the first duties of a State. The chief object of constitutions and laws being to render its citizens secure in their lives, liberty and property, the importance of a good education to each individuhl, to every community, and to the State, cannot be too highly valued. It is certainly of too great value to be estimated by any pecuniary consideration.

"From the genius, nature and spirit of republican government, it is and must be based upon public opinion; which to be salutary in its operation must be virtuous and enlightened.

"The permanence of our institutions ever have, and must continue to depend upon the genius of our constitution and laws, sustained by that spirit of freedom which actuates every man who is truly an American.

"Upon education we may safely confide as the conservative power of the State, that will watch over our liberties and guard them against fraud, corruption, and decay.

"Without morality, virtue and intelligence to regulate the genius a spirit of republicanism, the latter one constantly exposed to be swept away by the iron rule of ignorance and vice, when wielded by demagogues, to destroy our liberties.

"Morality and virtue may exist without the peculiar culture of schools; but a man can hardly be said to be intelligent without knowing how to read, and without that kind of knowledge that generally has its source in an education acquired at school. Without intelligence virtue and morality would cease to perform their legitimate functions, and to have that influence upon the body politic which it is necessary they should

exert. Without these necessary ingredients to sustain the purity and harmony of our constitution and laws, unless the people know and appreciate their rights, and know how to maintain and protect them, the vicious and disorderly will protect and screen each other from the operation of the laws; the restraining influence of the social and political compact will be annihilated, and dissolution and ruin will be the inevitable result.

"There can be no security, the true spirit of liberty cannot exist where vice, ignorance and immorality predominate.

"Where a right direction is given to the young and tender mind, correct principles inculcated and impulses given, morality, virtue and reason commence their reign, and with the necessary culture fit their possessors to be useful to themselves, ornaments to society, and safe-guards to the State. The strength of the State and the happiness of its people increase with the increase of useful knowledge. Without knowing their rights and duties men become dangerous to the State, nuisances to the community, and burdensome to themselves. By laying the foundation of a system susceptible of being carried into practical operation, and which will secure to the rising generation the means by which they may be educated.

"The greatest degree of social and individual prosperity will be secured to our posterity, and a strong guarantee of protection to our constitution and laws.

"Louisiana should possess the means of educating her youths at home. Southern men should have southern heads and hearts, with sentiments untarnished by doctrines at war with our rights and liberties. It is of the first importance that correct impressions be made upon the minds of children, for it is difficult to unlearn what has been learned amiss.

"When our children return from the north, after having received an education there, they have to be re-acclimated, and not unfrequently fall victims to the effects of the change. Many of the most promising youths of the State have been swept away within a very short period after their return with an accomplished education, from the effects of a change of climate. Youths who were the fondest hopes of their parents, and promised to be ornaments, not only to them, but to the State, and whose loss to both is irreparable.

"All this can be remedied by entering upon the work ourselves, with a determination to accomplish it. A good education furnished to the rising generation, will afford us a better guarantee of protection than fleets and armies. Shall we not then be inexcusable for neglect to make the trial?

"It is said that a man will give all he has for his life. If so, ought he not with equal readiness give the same price, if necessary, to secure his life, liberty and happiness, and the prospect of conferring upon his posterity the same blessings, enriched and enobled by the highest degree of intellectual attainments?

"All of which is respectfully submitted, together with the accompanying provisions and resolutions.

(Signed.) "G. MAYO,
"Chairman."

Report of the committee on the subject of education:

SEC. 1. "The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years; whose duties shall be prescribed by law; and who shall receive such compensation as the legislature may direct."

SEC. 2. "The legislature shall encourage the institution of common schools throughout the State, for the promotion of literature and the arts and sciences, and shall provide means for that purpose and for their support."

SEC. 3. "The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the use and support of schools, and of all land that may have been or may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of—per cent, which interest together with all the rents of the unsold lands, shall be inviolably appropriated to the support of schools and

institutions of learning throughout the State, until the rents or interest, or both together, shall amount to the sum of per annum, After which the annual excesss of such rents and interest may be applied by the legislature to other objects."

Sec. 4. "The funds arising from the rents or sales which may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be invoilably applied to the use specified, or that may be specified in the grant."

"And your committee recommend the adoption of the following resolution:

"*Resolved*, That our representatives and senators in congress be requested to use their best efforts to procure the passage of a law, granting to this State the unsold lands within this State, belonging to the United States, or as large a portion thereof as possible, for the purpose of education; and to co-operate, if necessary to effect that object, with the representatives and senators in congress from other States."

On motion of Mr. Mayo, said report and resolutions were laid on the table subject to call, and ordered to be printed.

On motion of Mr. Benjamin, the vote on the printing of the report was re-considered, and only the printing of the resolution was ordered.

This being the day fixed, the report of the committee of revision was called up, viz:

Section 2d of article 1st, as reported by the committee of revision.

"No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted."

On motion, said section was adopted.

The President submitted a letter of invitation from the Fire Department, and on motion of Mr. Roselius, the same was accepted.

Mr. Penn submitted the following resolution, viz:

"*Resolved*, That Wednesday, the 5th of March, at 1 o'clock, be, and the same is hereby fixed for taking the vote on the apportionment."

ORDER OF THE DAY.

Section 6th of the report of the special committee, composed of three members from each congressional district, viz:

"Each parish shall be entitled to representation in portion to its population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States. *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

The Convention at the last adjournment had under consideration the motion of Mr. O'Bryan to amend said section by striking out the words "its population ascertained and calculated according to the principle of representation adopted in the constitution of the United States."

And pending the discussion on said motion, the Convention adjourned till to-morrow at 11 o'clock a. m.

Note.—Members absent, Messrs. Covillion, Garcia and Soulé, absent on account of illness, and Messrs. Cade, Guion, Lewis, Scott of Madison and Splane, absent on leave.

Friday, February 28, 1845.

The Convention met pursuant to adjournment.

The Hon. delegate from Sabine, (Mr. Stephens) at the request of the president, opened the proceedings by prayer.

On motion, Messrs. Burton and Garrett were excused for non-attendance on account of illness.

ORDER OF THE DAY.

Section 6th, as reported by the committee composed of three members from each congressional district, viz:

"Each parish shall be entitled to representation according to its population, ascertained and calculated according to the principle of repsesentation adopted in the constitution of the United States; *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

Mr. O'Bryan moved to amend said section by striking out the words "its population ascertained and calculated according to the principle of representation adopted in the constitution of the United States."

Pending the discussion on said motion, Mr. Voorhies called up the resolution offered on yesterday, by Mr. Penn, viz:

Resolved, That Wednesday, the 5th of March, at 1 o'clock, be and the same is hereby fixed for taking the vote on the apportionment.

On motion of Mr. PORTER, said resolution was laid on the table indefinitely.

On motion of Mr. DOWNS, 2½ o'clock this day was fixed for the taking of the vote on the apportionment.

The 7th section, as reported by said committee of 12, was then called up, viz:

"No new parish shall be created with an extent of territory less than four hundred square miles, nor with a population less than the full representative number required at the time of its creation, to entitle it to a representative; nor shall any parish be so divided as to leave it with a smaller area or population than is above expressed."

Mr. O'BRYAN offered the following as a substitute for said section, viz:

"Each parish shall have one representative, and beyond that, if entitled to any more, in proportion the number of voters in each; *Provided*, that no parish or city shall ever have more than one-sixth of the whole number of representatives."

On motion of Mr. GRYMES, the section and substitute were laid on the table subject to call.

On motion of Mr. PORTER, the rule fixing half-past 2 o'clock to-day, for taking the vote on the apportionment, was rescinded.

Mr. TAYLOR of Assumption, moved that the Convention adjourn till Monday next, at 11 o'clock, a. m., which motion was lost.

On motion of Mr. RATLIFF, the Convention adjourned till to-morrow at 11 o'clock, a. m.

NOTE—Members absent: Messrs. Burton, Covillion and Garrett, absent on account of illness; and Messrs. Cade, Guion, Lewis, Scott of Madison, and Splane absent on leave.

SATURDAY, March 1, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WATKINS opened the proceedings by prayer.

ORDER OF THE DAY.

Section 6th, as reported by the special committee, to whom the same was referred, viz:

"Each parish shall be entitled to representation in proportion to its population, ascertained and calculated according to the principle of representation adopted in the constitution of the United States: *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

On the motion of Mr. O'BRYAN to amend said section, by striking out the words "its population ascertained and calculated according to the principle of representation adopted in the constitution of the United States," the yeas and nays being called for, resulted as follows:

Messrs. *Benjamin*, *Brazeale*, *Brumfield*, *Burton*, *Carriere*, *Cénas*, *Claiborne*, *Culbertson*, *Eustis*, *Grymes*, *Humble*, *King*, *Ledoux*, *Legendre*, *McRae*, *Marigny*, *Maznreau*, *O'Bryan*, *Peets*, *Porter*, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Soulé*, *Stephens*, *Waddill* and *Wederstrandt* voted in the affirmative—28 ayes; and

Messrs. *Aubert*, *Brent*, *Briant*, *Chambliss*, *Chinn*, *Derbes*, *Downs*, *Garrett*, *Hudspeth*, *Hynson*, *Mayo*, *Porche*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Roman*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Taylor* of St. Landry, and *Wadsworth* voted in the negative—22 nays; consequently said motion was carried.

Mr. O'BRYAN then moved to fill the blank with the words "the number of electors in it."

On motion, the Convention adjourned, till Monday next, at 11 o'clock, a. m.

NOTE.—Members absent: Messrs. Covillion and Garcia, absent on account of illness; Messrs. Cade, Guion, Lewis, Scott of Madison, and Splane, absent on leave; and Messrs. Boudousquié, Dunn, Kenner, Labauve, Penn, Roselius, St. Amand, Taylor of Assumption, Trist and Winchester, were absent from their seats.

MONDAY, March 3, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. BEATTY opened the proceedings by prayer.

On motion, Mr. Prescott of Avoyelles was excused for non-attendance on account of illness.

On motion, leave of absence was granted Messrs. Ratliff, Hudspeth, King and Taylor of St. Landry.

ORDER OF THE DAY.

ARTICLE SECOND, SECTION SIXTH, OF THE REPORT OF THE SPECIAL COMMITTEE, AS AMENDED.

Each parish shall be entitled to representation in proportion to ——; *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives.

Mr. O'Bryan moved to fill the blank in said section with the words "the number of qualified voters in it."

Mr. Downs submitted the following substitute, viz:

"Representation shall be equal and uniform in this State, and shall for ever be regulated and ascertained by the number of qualified electors therein; *Provided*, that no portion of the State now constituting one parish or city shall ever be entitled to more than twenty representatives, and that each parish shall have at least one representative; and, *Provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors."

In the year ——, and every four years thereafter, an enumeration of all the electors shall be made in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principle of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any law after the enumeration until the apportionment shall be made.

Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: eight by the 1st municipality, eight by the 2d municipality, three by the 3d municipality, and one for that part of the parish on the right bank of the Mississippi: 20

The parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
The Parish of	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	97

On motion of Mr. Downs, the printing of the above substitute was ordered, and the consideration of the same postponed until printed.

Mr. Guion moved to fill the blank in said section with the words "according to the qualified electors, together with the taxable property which it may contain."

Mr. Wadsworth moved to lay the amendments on the table, which motion was lost.

Mr. Wadsworth gave notice that he would, on Wednesday next, move the reconsideration of the vote given on the federal basis.

The yeas and nays being called for on the amendment of Mr. GUION, resulted as follows:

Messrs. *Aubert*, *Bourg*, *Chinn*, *Guion*, *Labauve*, *Legendre*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *St.Amand*, *Saunders*, *Scott* of Baton Rouge, *Sellers* and *Winder* voted in the affirmative—15 yeas; and

Messrs. *Beatty*, *Benjamin*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Cénas*, *Chambliss*, *Claiborne*, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Kenner*, *Leonard*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of St. Landry, *Preston*, *Read*, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Stephens*, *Voorhies*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Wikoff* voted in the negative—41 nays; consequently the motion was lost.

Mr. SELLERS offered the following substitute, to fill the blank with the words "whole population." The yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Bourg*, *Chinn*, *Derbes*, *Dunn*, *Guion*, *Kenner*, *Labauve*, *Pugh*, *Roman*, *Saunders*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Wadsworth* and *Winder* voted in favor of the substitute—17 yeas; and

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Cenas*, *Chambliss*, *Claiborne*, *Conrad* of New Orleans, *Covillion*, *Culbertson*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Legendre*, *Leonard*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Porter*, *Porche*, *Prescott* of St.Landry, *Preston*, *Prudhomme*, *Read*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Soulé*, *Stephens*, *Voorhies*, *Waddill*, *Wederstrandt* and *Wikoff* voted against the substitute—41 nays; consequently the same was lost.

Mr. CHINN moved that the first part of said section, fixing the basis of representation, be laid on the table subject to call; which motion was lost.

Mr. O'BRYAN then called for the yeas and nays on the motion offered by him on Saturday last, to fill the blank with the words "the number of qualified electors in it," which resulted as follows:

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Carriere*, *Cénas*, *Chambliss*, *Claiborne*, *Conrad* of New Orleans, *Covillion*, *Culbertson*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Legendre*, *Leonard*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Read*, *St. Amand*, *Saunders*, *Soulé*, *Stephens*, *Voorhies*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the affirmative—38 yeas; and

Messrs. *Aubert*, *Beatty*, *Bourg*, *Briant*, *Chinn*, *Derbès*, *Dunn*, *Guion*, *Kenner*, *Labauve*, *Porche*, *Pugh*, *Roman*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers* and *Winder* voted in the negative—18 nays; consequently the motion was adopted.

Mr. DOWNS then moved that the matter under consideration be postponed till tomorrow; which motion was lost.

Mr. DOWNS then called up the substitute submitted by him this morning, and ordered to be printed, and offered the same as a substitute for said section, viz:

ARTICLE SECOND.

SEC. 6. Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein; *Provided*, that no portion of the State now constituting one parish or city, shall ever be entitled to more than twenty representatives, and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. In the year ——, and every four years thereafter, an enumeration of all the electors shall be made, in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principles of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any laws after the enumeration, until the apportionment shall be made. Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: eight by the First Municipality; eight by the Second Municipality;

three by the Third Municipality, and one by that part of the parish on the right bank of the Mississippi: 20

The parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier	1
	Total,	97

On motion of Mr. BEATTY, said substitute was laid on the table.

Mr. MAYO moved to amend said section by striking out the word "fifth," and insert in lieu thereof the word "sixth."

Mr. MARIGNY moved that said motion to strike out be postponed till Thursday next. On a question of order, the president (Mr. Labauve in the chair) decided the motion to be out of order.

Mr. BENJAMIN moved to amend by striking out the proviso in said section.

And pending the discussion on said motion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

NOTE.—Members absent, Messrs. Garcia and Prescott of Avoyelles, absent on account of illness; Messrs. Cade, Hudspeth, King, Lewis, Ratliff, Splane and Taylor of St. Landry, absent on leave; and Messrs. Boudousquié and Penn were not in their seats.

TUESDAY, March 4, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. PRESTON opened the proceedings by prayer.

This being the day fixed for the re-consideration of the vote given on the adoption of section 3d of article 3d; on the motion of Mr. MAYO, said section was called up, viz:

SEC. 3. "No person shall be eligible to the office of governor or lieutenant governor who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election."

On motion of Mr. Mayo, said section was laid on the table, subject to call.

ORDER OF THE DAY.

Section 6th of the report of the committee to whom the same was referred, and as amended, viz:

"Each parish shall be entitled to representation in proportion to the number of qualified electors in it; *provided* that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

Mr. BENJAMIN moved to amend said seetion by striking out entirely the proviso.

On motion of Mr. SAUNDERS the following project, submitted by him, was taken under consideration, together with said section, viz:

"Until the first election after the month of January 1855, the members of the house of representatives shall be elected in the following manner:

"Every parish may elect one member,

and 7000 inhabitants, (including slaves,) shall be the mean increasing number which shall entitle a parish to an additional representative.

"And to prevent the house of representatives becoming too numerous, the mean increasing number shall be proportionally increased in the year of our Lord one thousand eight hundred and fifty-five, and every tenth year afterwards; so that the house of representatives shall never consist of more than one hundred members.

"Every parish which shall hereafter be established, shall be entitled to elect one representative, when it shall contain 7000 inhabitants, and not before; and until the year 1855 the representation shall be as follows, viz:

The parish of	Ascension,	2
"	Assumption,	2
"	Avoyelles,	2
"	Baton Rouge, East,	2
"	do West,	1
"	Bernard, St.,	1
"	Bossieur,	1
"	Caddo,	1
"	Calcassieu,	1
"	Caldwell,	1
"	Carroll,	1
"	Catahoula,	1
"	Charles, St.,	1
"	Claiborne,	1
"	Concordia,	2
"	Desoto,	1
"	Feliciana, East,	2
"	do West,	2
"	Franklin,	1
"	Helena, St.,	1
"	Iberville,	2
"	James, St.,	2
"	Jefferson,	2
"	John Baptist, St.,	1
"	Lafourche Interior,	2
"	Lafayette,	1
"	Landry, St.,	3
"	Livingston,	1
"	Madison,	1
"	Martin, St.	2
"	Mary, St.,	2
"	Morehouse,	1
"	Natchitoches,	2
"	Orleans,	15
"	Ouachita	1
"	Plaquemines,	1
"	Point Coupeé,	2
"	Rapides,	3
The Parish of	Sabine,	1
"	Tammany, St.,	1
"	Tensas,	1
"	Terrebonne,	1
"	Union,	1
"	Vermillion,	1
"	Washington,	1
"	Jackson,	1
	Total,	79

On motion of Mr. Downs, said project was ordered to be printed.

On motion of Mr. Dunn, the section under consideration and project were laid on the table, and made the special order of the day for to-morrow at 12 o'clock, m.

Mr. Mayo then moved the re-consideration of the vote on the adoption of section 3d of article 3d, viz:

"No person shall be eligible to the office of governor or lieutenant governor who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election."

Mr. Guion called for the yeas and nays on the motion to re-consider, which resulted as follows:

Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, Leonard, McRae, McCallop, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of St. Landry, Read, Scott of Raton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative— 30 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cènas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Kenner, Legendre, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Voorhies, Wikoff and Winder voted in the negative—28 nays; consequently said motion was carried.

Mr. Marigny obtained leave to change his vote.

Mr. McCallop having voted in the negative through mistake, moved that he be permitted to change his vote, and the yeas and nays being called,

Messrs. Brazeale, Brent, Carriere, Chambliss, Chinn, Claiborne, Covillion, Downs,

Dunn, Eustis, Garrett, Humble, Hynson, Kenner, Ledoux, Leonard, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of St. Landry, Prudhomme, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt and Wikoffvoted in the affirmative—40 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cenas, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Guion, Legendre, Mazureau, Roman, St. Amand and Winder voted in the negative—18 nays; consequently the same was granted.

Mr. Mayo then moved to amend said section 3d by striking out the word "fifteen," and insert in lieu thereof the word "ten."

On motion of Mr. Saunders; the taking of the vote on the motion to strike out the word "fifteen," and insert in lieu thereof the word "ten," was postponed until two o'clock.

Mr. Benjamin informed the Convention that he would, before the adjournment this day, submit a project of compromise on the question of apportionment, taking the whole population, including slaves, for the basis; which he moved might be printed, and taken up to-morrow with the project offered by Mr Saunders. On the question to receive the project and print the same, the yeas and nays being called for,

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Carriere, Cenas, Chambliss, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Grymes, Humble, Hynson, Labauve, Ledoux, Legendre, Leonard, McCallop, McRae, Mayo, Mazureau, Porche, Porter, Prudhomme, Pugh, Roman, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Voorhies, Wikoff, Winchester and Winder voted in the affirmative—52 yeas; and

Messrs. Burton, Marigny, O'Bryan, Peets, Preston, Read, Roselius, Waddill and Wederstrandt voted in the negative—9 nays; consequently the said project was received and ordered to be printed.

On motion of Mr. Dunn, the Convention then took under consideration the 10th section of article 2d, as reported by the majority, viz:

"The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by the persons entitled to vote for representatives, as follows:

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

"The parishes of Plaquemines, St. Bernard and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, shall compose the second district.

"The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

"The parishes of Iberville, West Baton Rouge, East Baton Rogue, Point Coupeé and Avoyelles, shall compose the fourth district.

"The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston shall compose the fifth district.

"The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

"The parishes of Rapides, Natchitoches, Caddo, Calcassieu, Claiborne, Sabine, Bossieur and De Soto, shall compose the seventh district.

"The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

"*Provided*, That the Legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators."

Mr. Downs moved to strike out said section 10th from the report of the majority.

And pending the discussion on said motion, the hour of two having arrived, Mr. Mayo moved that the vote be taken on his motion to strike out from the 3d section of article 3d, the words "fifteen," and insert in lieu thereof the words "ten," and the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, McCallop,

McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—30 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boudousquié, Bourg, Briant, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Garcia, Grymes, ,Guion, Kenner, Labauve, Legendre, Mazureau,Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Taylor of Assumption, Voorhies, Wadsworth, Wikoff, Winchester and Winder voted in the negative—34 nays; consequently said motion was lost.

Mr. Mayo then moved the re-adoption of the said section 3d, viz:

Sec. 3. "No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election."

Which motion prevailed.

On motion, the Convention adjourned, till to-morrow, at 11 o'clock, a. m.

Note.—Members absent: Mr. Prescott of Avoyelles, absent on account of illness; Messrs. Cade, Hudspeth, King, Lewis, Ratliff, Splane, and Taylor of St. Landry, absent on leave; and Mr. Penn was not in his seat.

Wednesday, March 5, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens, at the request of the president, opened the proceedings by prayer.

Agreeably to notice given by Mr. Wadsworth, on Monday last, this day was fixed for the re-consideration of the vote on the federal basis.

On motion of Mr. Claiborne, the said motion was laid on the table subject to call.

Mr. Taylor of Assumption moved for the reconsideration of the vote laying on the table subject to call; which motion was lost.

Next in order came the section 10th of the majority report on the legislative department, viz:

Sec. 10. The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the East side of the riverMississippi, shall comprise the first district.

The parishes of Plaquemines, St. Bernard, and the remainder ot the parish of Orleans, parish of Jefferson, St. Charles, and St. John the Baptist, shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Pointe Coupée and Avoyelles, shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion shall compose the eighth district.

Provided, that the legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

And pending the discussion on said section, the hour of 12 o'clock, m., having arrived, the special order of the day was then called up, viz:

ORDER OF THE DAY.

Section 6th of the report of the special committee as amended, viz:

"Each parish shall be entitled to representation in proportion to the number of qualified electors in it; *Provided*, that no parish or city shall ever be entitled to more than one-fifth of the whole number of representatives."

At the adjournment yesterday, the ques-

tion under debate was the motion of Mr. Benjamin, to strike out the proviso.

Agreeably to the order taken by the Convention, the projects offered by Messrs. Downs, Saunders and Benjamin were directed to be read, after the reading of the 6th section as reported by the special committee.

Project submitted by Mr. Downs, viz:

ARTICLE SECOND.

Sec. 6. Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein; *Provided*, that no portion of the State now constituting one parish or city shall ever be entitled to more than twenty representatives, and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. In the year ——, and every four years thereafter, an enumeration of all the electors shall be made in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principles of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any laws after the enumeration until the apportionment shall be made. Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows:

Eight by the First Municipality; eight by the Second Municipality; three by the Third Municipality, and one by that part of the parish on the right bank of the Mississippi: 20

The parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
The Parish of	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
	Total,	97

Project submitted by Mr. Saunders, viz:

Until the first election after the month of January, 1855, the members of the house of representatives shall be elected in the following manner:

Every parish may elect one member, and 7000 inhabitants (including slaves) shall be the mean increasing number which shall entitle a parish to an additional representative. And to prevent the house of representatives becoming too numerous, the mean increasing number which shall entitle a parish to elect more than one member, shall be proportionably increased in the year of our Lord one thousand eight hundred and fifty-five, and every tenth year afterwards, so that the house of representa-

tives shall never consist of more than one hundred members.

Every parish which shall hereafter be established, shall be entitled to elect one representative, when it shall contain 7000 inhabitants, and not before; and until the year 1855, the representation shall be as follows, viz:

The parish of	Ascension,	2
"	Assumption,	2
"	Avoyelles,	2
"	Baton Rouge, East,	2
"	" " West,	1
"	St. Bernard,	1
"	Bossier,	1
"	Caddo,	1
"	Calcasieu,	1
"	Caldwell,	1
"	Carroll,	1
"	Catahoula,	1
"	St. Charles,	1
"	Claiborne,	1
"	Concordia,	2
"	Desoto,	1
"	Feliciana, East,	2
"	" West,	2
"	Franklin,	1
"	St. Helena,	1
"	Iberville,	2
"	St. James,	2
"	Jackson,	1
"	Jefferson,	2
"	St. John the Baptist,	1
"	Lafourche Interior,	2
"	Lafayette,	1
"	St. Landry,	3
"	Livingston,	1
"	Madison,	1
"	St. Martin,	2
"	St. Mary,	2
"	Morehouse,	1
"	Natchitoches,	2
"	Orleans,	15
"	Ouachita	1
"	Plaquemines,	1
"	Point Coupeé,	2
"	Rapides,	3
"	Sabine,	1
"	St. Tammany,	1
"	Tensas,	1
"	Terrebonne,	1
"	Union,	1
"	Vermillion,	1
"	Washington,	1
	Total,	79

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Project submitted by Mr. BENJAMIN, viz:,

SEC. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation according to the total number of its population.

SEC. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the population of this State, in such a manner as shall be prescribed by law, for the purpose of ascertaining the number of the federal population in each parish.

SEC. 3. At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the federal population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one-half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment directed by this article shall have been made.

SEC. 4. The first representation under this constitution (ascertained as near as may be in accordance with the above principle, by assuming 4500 as a representative number) shall continue until the first apportionment shall be made by the legislature, and shall be as follows:

	First Municipality,	9
	Second Municipality,	8
	Third Municipality,	5
	West Bank,	1
The parish of	Plaquemines,	1
"	St. Bernard,	1
"	Jefferson,	2
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2

The Parish of	Iberville,	2
"	West Baton Rouge,	1
"	East Baton Rouge,	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcasieu.	1
"	Avoyelles,	1
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Jackson,	1
"	Union,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	86

On motion of Mr. Mayo, the project offered by Mr. Benjamin was first taken in consideration, viz:

Sec. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation, according to the total number of its population.

Sec. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

Sec. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one-half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment herein directed shall have been made.

Sec. 4. The first representation under this constitution (ascertained as near as may be in accordance with the above principle by assuming 4500 as a representative number) shall continue until the first apportionment shall be made by the legislature, and shall be as follows:

	First Municipality,	9
	Second "	8
	Third "	5
	West Bank,	1
The Parish of	Plaquemines,	1
"	St. Bernard,	1
"	Jefferson,	2
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupeé,	1
"	Concordia,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	2
"	St. Mary,	1
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1

The Parish of	St. Landry,	4
"	Calcasieu,	2
"	Avoyelles,	3
"	Rapides,	3
"	Natchitoches,	2
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	86

Mr. O'Bryan then moved that the project be laid on the table indefinitely.

And pending the discussion on said motion, the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note—Members absent: Messrs. Prescott of Avoyelles and Trist, absent on account of illness: and Messrs. Cade. Hudspeth, King, Lewis, Ratliff, Splane and Taylor of St. Landry, absent on leave, and Mr. Penn was not in his seat.

Thursday, March 6, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Preston opened the proceedings by prayer.

On motion, Mr. Guion was excused, on account of severe illness in his family.

ORDER OF THE DAY.

The project submitted by Mr. Benjamin on the Apportionment, viz:

Sec. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation according to the total number of its population.

Sec. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

Sec. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one-half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment herein directed shall have been made.

Sec. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle by assuming 4500 as a representative number,) shall continue until the first apportionment shall be made by the legislature, and shall be as follows:

	First Municipality,	9
	Second do,	8
	Third do,	5
	West bank,	1
The parish of	Plaquemines,	1
"	St. Bernard,	1
"	Jefferson,	2
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupée,	1
"	Concordia,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1

The Parish of	St. Landry,	4
"	Calcasieu,	1
"	Avoyelles,	1
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	86

Mr. O'Bryan moved that the said projeet be laid on the table indefinitely.

Mr. Taylor of Assumption, moved that the taking of the vote on the motion of Mr. O'Bryan to lay indefinitely on the table the project of Mr. Benjamin, be postponed until to-morrow at 2 o'clock, p. m.; and the yeas and nays being called for, resulted as follows:

Messrs. *Aubert, Beatty, Benjamin, Bourg, Brent, Briant, Carriere, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson *Derbes, Dunn, Garrett, Grymes, Hynson, Legendre, Leonard, McCallop, McRae, Marigny, Mazureau, Prescott* of St. Landry, *Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers, Soulé, Stephens, Taylor* of Assumption, *Wederstrandt*, and *Wikoff*---38 yeas; and

Messrs. *Brazeale, Burton, Chambliss, Covillion, Humble, Mayo, O'Bryan, Peets, Porche, Porter, Scott* of Madison, *Waddill*, and *Wadsworth*—13 nays. Consequently said motion was carried.

Mr. Taylor of Assumption, then called up the following section, submitted by Mr. Scott of Baton Rouge, viz:

Sec. — The seat of government shall from and after the year be permanently located out of the city of New Orleans, and not within a distance of miles from the said city.

Mr. Humble moved to postpone said section until the Convention take under consideration the general provisions, which motion was lost.

Mr. Chinn then offered the following substitute, viz:

At the first session of the legislature after the adoption of this constitution, a law shall be passed locating the seat of government at the town of Baton Rouge, in the parish of East Baton Rouge.

Mr. Winder submitted the following substitute, viz:

Resolved, That the first general assembly to be elected under this constitution, shall determine upon the place where the seat of government of this State shall be permanently located from and after the first day of January, 1850; provided, that it be not fixed in the city of New Orleans, nor less than sixty miles from the same, by the usual route of travelling.

Mr. Voorhies submitted the following substitute, viz:

At the first session of the legislature under this constitution, a law shall be passed to fix a suitable location for the seat of government of this State, which shall take effect in the year 1850; and shall not be subject to any change before the year 1870, and every twenty years thereafter, if deemed proper and expedient.

Mr. Beatty moved for the previous question; the president then put the question—"Shall the main question be now put?" which motion prevailed.

Mr. Voorhies then moved to lay indefinitely on the table the said section, and the yeas and nays being called for,

Messrs. *Benjamin, Boudousquie, Carriere, Cenas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes, Eustis, Garcia, Ledoux, Legendre, Marigny, Mazureau, Porche, Preston, Roman, Roselius, St. Amand, Soulé, Voorhies, Wadsworth*, and *Winchester*—23 yeas; and

Messrs. *Aubert, Beatty, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Chambliss, Chinn, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Kenner, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott* St. Landry, *Prudhomme, Pugh, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Waddill, Wederstrandt, Wikoff*, and *Winder*—40 nays. The motion was therefore lost.

Mr. Beatty moved to fill the blank with "1849," and the yeas and nays being called

Messrs. *Aubert, Beatty, Benjamin, Bourg, Brumfield, Burton, Carriere, Covillion, Garrett, Hynson, Kenner, Labauve, Leonard, McRae, Mayo, Prescott* of St. Landry, *Preston, Pugh, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé, Stephens, Waddill* and *Wikoff* voted in the affirmative—25 yeas; and

Messrs. *Boudousquie, Brazeale, Brent, Briant, Cénas, Chambliss, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes, Downs, Dunn, Eustis, Garcia, Humble, Ledoux, Legendre, McCallop, Marigny, Mazureau, O'Bryan, Peets, Porche, Porter, Prudhomme, Ratliff, Roman, Roselius, St. Amand, Scott* of Madison, *Sellers, Voorhies, Wadsworth, Wederstrandt Winchester* and *Winder* voted in the negative—37 nays; consequently the motion was lost.

Mr. Wederstrandt then moved to fill the blank with "1848;" the yeas and nays being called for,

Messrs. *Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Covillion, Downs, Dunn, Garrett, Humble, Hynson, Kenner, Labauve, Leonard, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott* of St. Landry, *Preston, Pugh, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—39 yeas;

Messrs. *Aubert, Benjamin, Boudousquie, Briant, Carriere, Cenas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes, Eustis, Garcia, Ledoux, Legendre, Marigny, Mazureau, Porche, Prudhomme, Roman, Roselius, St. Amand, Soulè, Voorhies, Wadsworth,* and *Winchester* voted in the negative—25 nays; said motion was carried.

Mr. Marigny moved that the Convention adjourn till to-morrow at 11 oclock a. m., and the yeas and nays being called

Messrs. *Benjamin, Boudousquie, Briant, Brumfield, Cenas, Chambliss, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes, Dunn, Eustis, Garcia, Kenner, Ledoux, Legendre, Leonard, McCallop, McRae, Marigny, Mazureau, O'Bryan, Porche, Porter, Prescott* of St. Landry, *Preston, Ratliff, Roman, Roselius, St. Amand, Scott* of Madison, *Soulè, Stephens, Wadsworth, Wikoff* and *Winchester* voted for the adjournment—36 yeas; and

Messrs. *Aubert, Beatty, Bourg, Brazeale, Brent, Burton, Carriere, Chinn, Covillion, Downs, Garrett, Humble, Hynson, Labauve, Mayo, Peets, Pugh, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers, Taylor* of Assumption, *Voorhies, Waddill, Wederstrand* and *Winder* voted against the adjournment—27 nays; consequently the same was carried.

Note.—Members absent, Messrs. Guion, Prescott of Avoyelles and Trist, absent on account of illness, Messrs. Cade, Hudspeth, King, Lewis, Splane and Taylor of St. Landry, absent on leave; and Messrs. Culbertson and Penn were not in their seats.

Friday, March 7, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Nicholson opened the proceedings by prayer.

Mr. Ratliff, chairman of the committee on contingent expenses, submitted the following resolution, and the same was adopted, viz:

Resolved, That the sum of one hundred and forty-seven dollars be allowed D. O. Nadaud as a remuneration for that amount paid by him to an assistant to enable him to keep his records up with the proceedings of the Convention, and that the committee on contingent expenses be authorized to pay the same.

Mr. Waddill offered the following resolution, viz:

Resolved, That in commemoration of the annexation of Texas, whereby the peace, safety and glory of the Union are preserved, this Convention will now adjourn to meet on Tuesday, the 11th inst. at 11 o'clock, a. m.

Mr. Dunn moved that said resolution be laid on the table, and called for the yeas and nays, which resulted as follows, viz:

Messrs. *Aubert, Benjamin, Bourg, Brazeale, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Dunn, Garrett, Hynson, Legendre, Lewis, McCallop, Mayo, Mazureau, Preston, Prudhomme, Pugh, Roman, Roselius, St Amand, Saunders, Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Voorhies, Wederstrandt* and *Winder*—37 yeas; and

Messrs. *Brent, Cénas, Claiborne, Humble, Leonard, McRae, Peets, Porter, Pres-*

cott of St. Landry, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé*, *Waddill*, and *Wikoff*—16 nays; consequently said motion was carried.

Mr. Scott of Baton Rouge, moved that when the Convention adjourns to-day, it will adjourn to meet on Tuesday next, the 11th inst. at 11 o'clock, a. m. The yeas and nays being called for, (Mr. Claiborne in the chair,)

Messrs. *Brent*, *Briant*, *Cénas*, *Humble*, *McCallop*, *McRae*, *Porter*, *Prescott* of St. Landry, *Read*, *Roman*, *Scott* of Baton Rouge, *Scott* of Feliciana, and *Soulé*—13 yeas; and

Messrs. *Aubert*, *Benjamin*, *Bourg*, *Brazeale*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Garrett*, *Hynson*, *Legendre*, *Leonard*, *Lewis*, *Mayo*, *Mazureau*, *Peets*, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrandt*, *Wikoff* and *Winder*—39 nays; consequently the motion was lost.

At the adjournment on yesterday, the Convention had under discussion the following resolution, submitted by Mr. Scott of Baton Rouge, viz:

The seat of government shall, from and after the year 1848, be permanently located out of the city of New Orleans, and not within a distance of ——— miles from the said city.

Mr. Chinn then moved for the reconsideration of the vote given on yesterday on the previous question, which motion prevailed.

Mr. Voorhies then called up the substitute offered by him on yesterday, viz:

At the first session of the legislature under this constitution, a law shall be passed to fix a suitable location for the seat of government for this State, which shall take effect in the year 1850, and shall not be subject to any change before the year 1870, and every twenty years thereafter, if deemed proper and expedient.

Mr. Brent moved that said substitute be laid on the table indefinitely, and the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Conrad* of New Orleans, *Derbès*, *Dunn*, *Garret*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill*, *Wederstrandt* and *Wikoff*—36 yeas; and

Messrs. *Benjamin*, *Briant*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Eustis*, *Grymes*, *Legendre*, *Leonard*, *Mazurea*, *Roman*, *Roselius*, *St. Amand*, *Soule*, *Voorhies*, *Wadsworth* and *Winchester*, voted in the negative—19 nays, consequently the motion was carried.

Mr. Saunders then submitted the following substitute, viz:

The general assembly which shall sit after the first election of representatives under the new constitution, shall within the first month after the commencement of the session designate and fix the seat of government at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route, and if on the Mississippi river, by the meanders of the same and when so fixed, it shall not be removed except by the consent of four-fifths of the members of both houses of the general assembly.

The sessions of the general assembly shall be held in New Orleans until the end of the year 1848.

Mr. Voorhies moved to amend said substitute by striking out the words "at some place not less than sixty miles from the city of New Orleans by the nearest travelling route, and if on the Mississippi river by the meanders of the same." The yeas and nays being called for,

Messrs. *Benjamin*, *Briant*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson; *Culbertson*, *Derbès*, *Dunn*, *Eustis*, *Grymes*, *Legendre*, *Mazureau*, *Porche*, *Porter*, *Preston*, *Prudhomme*, *Roman Roselius*, *St. Amand*, *Soule*, *Stephens*, *Trist*, *Voorhies*, *Wadsworth* and *Winchester*, voted in the affirmative—27 yeas, and

Messrs. *Aubert*, *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Covillion*, *Garrett*, *Humble Hynson*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Prescott* of St. Landry, *Pugh*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Taylor* of Assumption

Waddill, *Wederstrandt*, *Wikoff* and *Winder*, voted in the negative—34 nays; consequently said motion was lost.

Mr. CLAIBORNE moved to amend said substitute by striking out the words "four-fifths" and insert in lieu thereof the words "two-thirds."

Mr. SAUNDERS moved for the previous question.

The PRESIDENT then put the question, "shall the main question be now put?" the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Dunn*, *Garrett*, *Hynson*, *McCallop*, *McRea*, *Mayo*, *O'Bryan*, *Peets*, *Prescott* of St. Landry, *Pugh*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Taylor* of Assumption, *Waddill*, *Wederstrandt*, *Wikoff*, and *Winder* voted in the affirmative—31 yeas; and

Messrs. *Benjamin*, *Briant*, *Carriere*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Eustis*, *Grymes*, *Humble*, *Legendre*, *Lewis*, *Mazureau*, *Porche*, *Porter*, *Preston*, *Prudhomme*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Soulè*, *Stephens*, *Trist*, *Voorhies*, *Wadsworth* and *Winchester* voted in the negative—30 nays. The President being called upon to vote, voted in the negative which made the vote equal, consequently said motion was lost.

Mr. WINDER moved for a division, that [illegible], that the Convention first proceed to strike out, which motion prevailed.

The yeas and nays were then called, on the motion of Mr. Claiborne, to strike out the words "four-fifths," and

Messrs. *Benjamin*, *Briant*, *Carriere*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Eustis*, *Grymes*, *Kenner*, *Ledoux*, *Lewis*, *Marigny*, *Mayo*, *Mazureau*, *Porter*, *Preston*, *Prudhomme*, *Roman*, *Roselius*, *St. Amand*, *Soulé*, *Trist*, *Voorhies*, *Wadsworth* and *Winchester* voted in favor of the motion—29 yeas; and

Messrs. *Aubert Beatty*, *Bourg*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Labauve*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Prescott* St. Landry, *Pugh*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wederstrandt*, *Wikoff* and *Winder* voted against the motion—33 nays; consequently the same was lost.

Mr. DUNN then moved to amend said substitute by inserting one hundred and twenty miles, instead of sixty miles.

Mr. Beatty moved for the previous question.

The PRESIDENT then put the question, shall the main question be now put; and the yeas and nays being called for

Messrs. *Aubert*, *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Burton*, *Chambliss*, *Chinn*, *Garrett*, *Humble*, *Hynson*, *Labauve*, *McCallop*, *McRea*, *Mayo*, *Peets*, *Pugh*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wederstrandt*, *Wikoff* and *Winder* voted in the affirmative—29 yeas; aad

Messrs. *Benjamin*, *Briant*, *Cade*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Guion*, *Grymes*, *Kenner*, *Legendre-Lewis*, *Marigny*, *Mazureau*, *O'Bryan*, *Porter*, *Prescott* of St. Landry, *Preston*, *Prud, homme*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Soulé*, *Trist*, *Voorhies*, *Wadsworth* and *Winchester* voted in the negative—35 nays.

Consequently the motion was lost.

The hour of 2 o'clock having arrived, the special order of the day was called up; it being the following project submitted by Mr. Benjamin, viz:

SEC. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation, according to the total number of its population.

SEC. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

SEC. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall

be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment hereindirected shall have been made.

SEC. 4. The first representation under this constitution, (ascertained as near as may be, in accordance with the above principle, by assuming 4500 as a representative number,)shall continue until the first apportionment shall be made by the legislature, and shall be as follows:

First Municipality,	9
Second "	8
Third "	5
West Bank,	1
The parish of Plaquemines,	1
" St. Bernard,	1
" Jefferson,	2
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
" Iberville,	2
" West Baton Rouge,	1
" East, do	2
" West Feliciana,	2
" East, do	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Point Coupeé,	1
" Concordia,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	2
" Vermillion,	1
" Lafayette,	1
" St. Landry,	4
" Calcassieu,	1
" Avoyelles,	1
" Rapides,	3
The Parish of Natchitoches,	3
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	1
" Claiborne,	1
" Bossier,	1
Total,	86

Mr. O'BRYAN moved that said project be laid on the table indefinitely.

On motion of Mr. SAUNDERS, the special order of the day was postponed until the matter under discussion was disposed of.

Mr. LABAUVE then moved for a division of the motion of Mr. Dunn, that is, that the Convention first proceed to strike out; which motion prevailed.

The yeas and nays were then called for on the motion to strike out the word "sixty," and

Messrs. *Benjamin*, *Briant*, *Carriere*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Legendre*, *Leonard*, *Lewis*, *Mazureau*, *Porter*, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Roman*, *Roselius*, *St. Amand*, *Soulè*, *Stephens*, *Voorhies*, *Wadsworth* and *Winchester* voted in the affirmative—31 yeas; and

Messrs. *Aubert*, *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Garrett*, *Humble*, *Hynson*, *Kenner*, *Labauve*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Pugh*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Taylor* of Assumption, *Trist*, *Waddill*, *Wederstrandt*, *Wikoff* and *Winder* voted in the negative—35 nays; consequently said motion was lost.

Mr. CONRAD of New Orleans moved to amend, by inserting after the words "four-fifths" the words "the members present of each house of the general assembly;" which motion was lost.

Mr. SAUNDERS then moved for the adoption of the substitute, and the yeas and nays being called for, resulted as follows:

Messrs. *Aubert*, *Beatty*, *Bourg*, *Brazeale*,

Mr. SAUNDERS then moved for the adoption of the substitute, and the yeas and nays being called for, resulted as follows:

Messrs. *Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Dunn, Garrett, Humble, Hynson, Kenner, Labauve, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott* of St. Landry, *Pugh, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Trist, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—39 yeas; and

Messrs. *Benjamin, Briant, Carriere, Cénas, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Downs, Eustis, Garcia, Grymes, Legendre, Leonard, Marigny, Mazureau, Porche, Porter, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulè, Voorhies, Wadsworth and Winchester* voted in the negative—28 nays; consequently the motion was carried.

Mr. BENJAMIN then moved that the Convention adjourn until Tuesday next at 11 o'clock a. m., and the yeas and nays being called for,

Messrs. *Beatty, Benjamin, Bourg, Brent, Briant, Cenas, Claiborne, Conrad* of Jefferson, *Culbertson, Downs, Dunn, Eustis, Garcia, Grymes, Humble, Kenner, Labauve, Lewis, Mazureau, Porche, Porter, Prescott* of St. Landry, *Read, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé, Stephens, Taylor* of Assumption, *Trist, Wadsworth* and *Winchester*, voted in favor of adjournment—yeas 35; and

Messrs. *Aubert, Brazeale, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Conrad* of New Orleans, *Covillion, Derbes, Garrett, Hynson, Legendre, Leonard, McCallop, Marigny, Mayo, O'Bryan, Peets, Peston, Prudhomme, Ratliff, Scott* of Madison, *Sellers, Voorhies, Waddill, Wederstrandt* and *Winder*, voted against the adjournment—nays 29; the same was carried.

NOTE.—Members absent.--Messrs. Guion, and Prescott of Avoyelles, absent on account of illness.—Messrs. Hudspeth, King, Splane, and Taylor of St. Landry, absent on leave.—Messrs. Boudousquié. Ledoux and Penn, were not in their seats.

TUESDAY, March 11, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WARREN opened the proceedings by prayer.

On motion, leave of absence was granted Messrs. Brent, Wikoff, O'Bryan, and Prescott of St. Landry. Mr. Trist was excused attending on account of indisposition.

Mr. WADSWORTH submitted the following resolution, viz:

Resolved, that a committee of three be appointed to make suitable arrangements to accommodate the members of the Convention at the hall of the house of representatives of the State Legislature.

Mr. MARIGNY moved to amend said resolution by instructing the said committee to report if the hall of the house of representatives be sufficiently large to accommodate the members.

Mr. VOORHIES moved that the resolution and amendment be laid on the table, which motion prevailed.

Mr. DOWNS offered the following resolution, viz:

Resolved, that when the Convention adjourn, it adjourn to meet in the hall of the house of representatives, and that the officers of the Convention make the necessary arrangements with the sergeant-at-arms of the house of representatives for the reception of the members; which resolution was adopted.

Mr. CENAS offered the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be authorized to dispose of so much of the furniture of the Convention as may no longer be requisite for the use of the same, upon such terms as to said committee may seem most advantageous.

Mr. CADE offered the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be directed to settle with the proprietress of the hall for the rent thereof, and deliver up the same to her agreeably to contract.

Mr. SOULE then moved that the Convention adjourn till to-morrow at 11 o'clock a. m., to meet in the hall of the house of representatives, and the yeas and nays being called for,

Messrs. *Benjamin, Boudousquie, Cenas, Claiborne, Conrad* of Jefferson, *Culbert-*

son, Garcia, Legendre, Leonard, Mazureau, Prudhomme, Roman, Roselius, St. Amand, and *Soule,* voted in the affirmative—15 yeas, and

Messrs. *Beatty, Brazeale, Briant, Brum, field, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Derbes, Downs, Dunn, Garrett, Humble, Hynson, Labauve, McCallop, McRae, Marigny, Mayo, Penn, Porche, Preston, Pugh, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Voorhies, Waddill* and *Wadsworth,* voted in the negative—36 nays, consequently said motion was lost.

ORDER OF THE DAY.

Project offered by Mr. BENJAMIN viz:

SEC. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation according to the total number of its population.

SEC. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

SEC. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one-half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any subject matter till the apportionment herein directed shall have been made.

SEC. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle, by assuming 4500 as a representative number,) shall continue until the first apportionment shall be made by the legislature, and shall be as follows, viz:

First Municipality,	9
Second "	8
Third "	5
West Bank,	1
The parish of Plaquemines,	1
" St. Bernard,	1
" Jefferson,	2
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
" Iberville,	2
" West Baton Rouge,	1
" East, do	2
" West Feliciana,	2
" East, do	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Point Coupeé,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	2
" Vermillion,	1
" Lafayette,	1
" St. Landry,	4
" Calcasieu,	1
" Avoyelles,	1
" Rapides,	3
" Natchitoches,	3
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	1
" Claiborne,	1
" Bossier,	1
Total,	86

The question was on the motion of Mr O'BRYAN that said project be laid on the table indefinitely.

Mr. BENJAMIN offered the following resolution, viz:

Resolved, That the debate upon the subject matter now the order of the day, shall be closed on Thursday next at 2 o'clock, p. m.

On motion of Mr. DOWNS, the following amendment was adopted, viz: "And on every amendment or question arising therefrom;" and the resolution as amended was adopted.

Mr. WADSWORTH moved that the Convention adjourn till to-morrow at 11 o'clock a. m.; the yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Briant*, *Cenas*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Legendre*, *McCallop*, *Mazureau*, *Prudhomme*, *Ratliff*, *Read*, *Roman*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Taylor* of Assumption, *Waddill* and *Wadsworth*, voted in favor of the adjournment—25 yeas; and

Messrs. *Brazeale*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Conrad* of New Orleans, *Covillion*, *Derbes*, *Garrett*, *Humble*, *Hynson*, *Kenner*, *Labauve*, *Leonard*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porter*, *Preston*, *Pugh*, *Scott* of Madison, *Sellers*, *Soulé*, *Stephens* and *Voorhies* voted against the motion—30 nays; consequently the same was lost.

On motion, the Convention adjourned till to-morrow at 11 o'clock a. m., to meet in the hall of the house of representatives.

WEDNESDAY, March 12, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings by prayer.

Mr. DOWNS offered the following resolution, viz:

Resolved, That the Secretary of the Convention be authorized to subscribe for one copy of the Bulletin newspaper, for the use of each member of the Convention, during the remainder of the session.

Mr. KENNER moved to amend the above resolution by adding the words, " and that the Convention discontinue the subscription to the Republican."

On motion of Mr. BEATTY, the resolution and amendment were laid on the table.

Mr. BEATTY then submitted the following resolution, viz:

Resolved, That a committee of three members be appointed to inquire, whether it be the fault of the reporters or of the publishers that the debates in English have not been published to date, with instructions to report a resolution removing the delinquents from office.

Which resolution was adopted.

The President appointed Messrs. Beatty, Ratcliff and Downs, members of said committee.

On motion, leave of absence was granted Mr. Brumfield.

ORDER OF THE DAY.

Project of Mr. BENJAMIN on the apportionment, viz:

SEC. 1. Representation shall be fair and uniform in this State, and each parish shall be entitled to representation according to the total number of its population.

SEC. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

SEC. 3. At the first regular session of the Legislature, after the making of each census, the Legislature shall apportion the representation among the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the devisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the Legislature shall be incompetent to act on any other subject matter till the apportionment herein directed shall have been made.

SEC. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle, by assuming four thousand five hundred as a representative number,) shall continue until the first apportionment shall

be made by the Legislature, and shall be as follows:

First Municipality,		9
Second	do,	8
Third	do,	5
West Bank,		1
The parish of	Plaquemines,	1
"	St. Bernard,	1
"	Jefferson,	2
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Pointe Coupée,	1
"	Concordia,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	2
"	Vermillion,	1
"	Lafayette,	1
"	St. Landry,	4
"	Calcasieu,	1
"	Avoyelles,	1
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	86

The question under consideration was the motion of Mr. O'Bryan to lay the above on the table indefinitely.

On motion of Mr. Ratcliff said project was laid on the table, subject to call.

On motion of Mr. Ratcliff, the Convention then took under consideration the 7th article of the constitution, which provides for the revising of the same, viz:

"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 State shall cause the same to be published three months before the next general election, in at least one newspaper in every parish of the State in which newspapers shall be published, and if in the Legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the Secretary of State shall cause the same to be published in manner aforesaid, at least three months prior to the next general election for representatives to the State Legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if the people shall approve and ratify such amendment or amendments by a majority of all the qualified voters of this State, voting thereon, such amendment or amendments shall become a part of the constitution: *Provided*, that if more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.

Mr. Mayo moved to amend said article by inserting after the word election, the words "For representatives to the next Legislature,"—which amendment was lost.

Mr. Boudousquie moved to amend said article by inserting after the word "published" the words, "in French and English," which motion was adopted.

Mr. Claiborne moved to amend by inserting after the words "shall be agreed to" the words, "by two-thirds."

Mr. Soule moved to amend the amendment by inserting "three-fifths," instead of "two-thirds," which amendment was accepted by Mr. Claiborne; and the yeas and nays being called for on the adoption of the amendment, resulted as follows:

Messrs. *Beatty, Benjamin, Boudousquie, Briant, Cade, Carriere, Cenas, Claiborne,*

Conrad of New Orleans, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Garcia*, *Kenner*, *Labauve*, *Ledoux*, *Legendre*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Sellers*, *Soulè*, *Taylor* of Assumption, *Voorhies*, *Wadsworth* and *Winder* voted in the affirmative—29 yeas; and

Messrs. *Brazeale*, *Burton*, *Chambliss*, *Chinn*, *Covillion*, *Culbertson*, *Downs*, *Garrett*, *Hudspéth*, *Humble*, *Hynson*, *King*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Stephens*, *Waddill* and *Wederstrandt* voted in the negative—29 nays; the vote being equally divided, the president voted in the negative, consequently the motion was lost.

Mr. Boudousquie gave notice that he would, on a future day, move the re-consideration of said vote.

Mr. Conrad moved to amend by inserting after the words "members elected to each house" the words "and approved by the governor;" which amendment was adopted.

On motion, the Convention adjourned till to-morrow at 11 o'clock a. m.

Note.—Members absent, Messrs. Brent, Brumfield, Guion, O'Bryan, Prescott of St. Landry, Splane, Taylor of St. Landry and Wikoff, absent on leave; Messrs. Prescott of Avoyelles and Trist absent on account of illness; and Messrs. Aubert, Bourg, Grymes, Saunders and Winchester did not appear in their seats.

Thursday, February 13, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Woolridge opened the proceedings by prayer.

Mr. Peets submitted the following resolution, viz:

Resolved, that the standing order of the Convention to meet at the hour of 11 o'clock a. m., be rescinded, and that the Convention shall hereafter meet at 10 o'clock a. m.

On motion of Mr. Peets, the dispensation of the rule was granted, and the resolution adopted.

On motion of Mr. Chinn, the vote given on yesterday on the inserting the words "three-fifths," in the 7th article of the constitution, was reconsidered; and the vote to be taken on said amendment laid on the table subject to call.

ORDER OF THE DAY.

ARTICLE SEVENTH—MODE OF REVISING THE CONSTITUTION, VIZ:

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, and approved by the governor, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published three months before the next general election, in at least one newspaper in French and English, in every parish in the State in which newspapers shall be published; and if in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months prior to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if the people shall approve and ratify such amendment or amendments by a majority of all the qualified voters of this State voting thereon, such amendment or amendments shall become a part of the constitution. *Provided*: that if more than one amendment be submitted at a time, they shall be submitted in such manner and form, that the people may vote for or against each amendment separately and distinctly.

Mr. Lewis moved to amend said article by striking out the words "voting thereon;" and the yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Brazeale*, *Briant*, *Carriere*, *Chinn*, *Claiborne*, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Leonard*, *Lewis*, *McCallop*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Porche*, *Porter*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Sellers*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Wadsworth* *Wederstrandt* and *Winder*, voted in the affirmative —46 yeas; and

Messrs. *Burton, Cade, Chambliss, Conrad* of New Orleans, *Conrad* of Jefferson, *McRae, Penn, Preston, Scott* of Feliciana, *Scott* of Madison, and *Waddill*, voted in the negative—11 nays; consequently said motion was carried.

On motion of Mr. Benjamin, the taking of the vote on the amendment of Mr. Soulé to insert three-fifths, was called up, and the yeas and nays being called for,

Messrs. *Beatty, Benjamin, Boudousquie, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Taylor* of Assumption, *Wadsworth*, and *Winder*, voted in favor of the amendment; 32 yeas; and

Messrs. *Brazeale, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Preston, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Stephens, Voorhies, Waddill* and *Wederstrandt*, voted against the amendment—30 nays; the same was carried.

On the motion to adopt the article as amended, viz:

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 three-fifths of the members elected to each house, and approved by the governor, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published three months before the next general election, in at least one newspaper in French and English, in every parish in the State in which newspapers shall be published; and if in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months prior to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if the people shall approve and ratify such amendment or amendments by a majority of all the qualified voters of this State, such amendment or amendments shall become a part of the constitution. *Provided*, that if more than one amendment be submitted at a time, they shall be submitted in such manner and form, that the people may vote for or against each amendment, seperately and distinctly.

The yeas and nays being called for, resulted as follows, viz:

Messrs. *Beatty, Benjamin, Boudousquie, Briant, Carriere, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Leonard, Lewis, Marigny, Mazureau, Prudhomme, Pugh, Ratliff, Roman, Roselius, St. Amand, Sellers, Soulé, Stephens, Taylor of Assumption, Wadsworth and Winder*—40 yeas; and

Messrs. *Brazeale Burton, Cade, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Preston, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott of* Madison, *Voorhies, Waddill*, and *Wederstrandt*—23 nays; consequently the same was adopted.

Previous to the hour of two o'clock p. m., on motion of Mr. Downs, the order of the day was called up, viz:

Mr. Ratliff gave notice that he would on a future day move the reconsideration of the vote given to insert the three-fifths in the above 7th article just adopted.

ORDER OF THE DAY.

Project of Mr. Benjamin on the apportionment:

Sec. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation, according to the total number of its population.

Sec. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

Sec. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number

shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a devisor, and each parish shall be entitled to one representative for every time that the devisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment herein directed shall have been made.

SEC. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle by assuming 4500 as a representative number,) shall continue until the first apportionment shall be made by the legislature, and shall be as follows:

	First Municipality,	9
	Second Municipality,	8
	Third Municipality,	5
	West Bank,	1
The parish of	Plaquemines,	1
"	St. Bernard,	1
"	Jefferson,	2
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East Baton Rouge,	2
"	West Feliciana,	2
"	East "	2
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupeé,	1
"	Concordia,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	2
"	Vermillion,	1
The Parish of	Lafayette,	1
"	St. Landry,	4
"	Calcasieu.	1
"	Avoyelles,	1
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	1
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	1
"	Claiborne,	1
"	Bossier,	1
	Total,	86

The question under consideration was the motion of Mr. O'BRYAN to lay on the table indefinitely the above project, and the yeas and nays being called for,

Messrs. *Brazeale*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Leonard*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Penn*, *Porche*, *Porter*, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Stephens*, *Voorhies*, *Waddill* and *Wederstrandt*, voved in the affirmative—30 yeas; and

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Briant*, *Carriere*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Sellers*, *Soulè*, *Taylor* of Assumption, *Wadsworth* and *Winder*, voted in the negative—33 nays; consequently said motion was lost.

Mr. DOWNS moved to amend by striking out from the first section in the second line from the word "State," all the words and sections in said project, and insert in lieu thereof, the following, viz:

ARRICLE SECOND.

SEC. 6. And shall forever be regulated and ascertained by the number of qualified electors therein: *provided* that at every future apportionment, the full representation of New Orleans, with its present limits, shall be reduced one-fifth, and that each parish shall have at least one representative; and *provided further*, that no new parish

shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. In the year , and every four years thereafter, an enumeration of all the electors shall be made, in such manner as shall be directed by law. The number of representatives shall in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principles of this section, as not to be less than eighty, nor more than one hundred: *provided*, that the general assembly shall be incompetent to pass any laws after the enumeration until the apportionment shall be made. Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows:

First Municipality,	8
Second "	8
Third "	3
Right Bank of the Mississippi,	1
The Parish of Plaquemines,	2
" St. Bernard,	1
" Jefferson,	3
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
" Iberville,	2
" West, Baton Rouge,	1
" East "	3
" West Feliciana,	2
" East "	3
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Point Coupeé,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	3
" Vermillion,	1
" Lafayette,	2
The Parish of St. Landry,	5
" Calcasieu,	1
" Avoyelles,	2
" Rapides,	4
" Natchitoches,	4
" Sabine,	2
" Caddo,	1
" De Soto,	1
" Ouachita	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	2
" Claiborne,	2
" Bossier,	1
Total,	97

Mr. Taylor of Assumption moved to amend said amendment by striking out from the first section the words "provided, that at every future apportionment the full representation of New Orleans, with its present limits, shall be reduced one-fifth." And pending the discussion on said motion the Convention adjourned till to-morrow at 11 o'clock, a. m.

Note.—Members absent: Messrs. Brent, Brumfield, Prescott of St. Landry, Splane, Taylor of St. Landry and Wikoff, absent on leave. Messrs. Prescott of Avoyelles, and Trist, absent on account of illness; and Messrs. Aubert, Bourg and Winchester did not appear in their seats.

Friday, March 14, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens, at the request of the President, opened the proceedings by prayer.

Mr. Ratliff, chairman of the committee on contingent expenses, submitted the following resolution, which was adopted, viz:

Resolved, That the committee on contingent expenses be authorized to pay Mrs. Hawley nine hundred and twenty-six dollars for the rent of the St. Louis ball room for the sitting of the Convention from the 13th of January until the 11th of March, and other expenses, gas, water, &c. while there.

ORDER OF THE DAY.

Project of Mr. Benjamin on the apportionment:

Sec. 1. Representation shall be fair and uniform in this State, and each parish shall be entitled to representation according to the total number of its population.

Sec. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

Sec. 3. At the first regular session of the Legislature, after the making of each census, the Legislature shall apportion the representation among the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the devisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the Legislature shall be incompetent to act on any other subject matter till the apportionment herein directed shall have been made.

Sec. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle, by assuming four thousand five hundred as a representative number,) shall continue until the first apportionment shall be made by the Legislature, and shall be as follows:

First Municipality,	9
Second do,	8
Third do,	5
West Bank,	1
The parish of Plaquemines,	1
" St. Bernard,	1
" Jefferson,	2
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
" Iberville,	2
The Parish of West Baton Rouge,	1
" East " "	2
" West Feliciana,	2
" East "	2
" St. Helena,	1
" Livingston,	1
" Washington,	1
" St. Tammany,	1
" Pointe Coupée,	1
" Concordia,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	2
" Vermillion,	1
" Lafayette,	1
" St. Landry,	4
" Calcasieu,	1
" Avoyelles,	1
" Rapides,	3
" Natchitoches,	3
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	1
" Claiborne,	1
" Bossier,	1
Total,	86

Which project Mr. Downs moved to amend by striking out all the words and sections after the word "State," and insert the following, viz:

ARTICLE SECOND.

"And shall forever be regulated and ascertained by the number of qualified electors therein; *Provided*, that at any future apportionment, the full representation of New Orleans, with its present limits, shall be reduced one fifth, and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. In the year ——, and every four years thereafter, an enumeration of all the electors shall be made, in such manner as

shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principles of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any laws after the enumeration until the apportionment shall be made. Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: eight by the First Municipality; eight by the Second Municipality; three by the Third Municipality, and one by that part of the parish on the right bank of the Mississippi.

The Parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East do do	3
"	West Feliciana,	2
"	East do	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcassieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
The Parish of	Ouachita,	1
"	Morehouse	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
Total,		97

The question under consideration, being he motion of Mr. Taylor of Assumption, to strike out the following proviso in the first section of the amendment of Mr. Downs, the yeas and nays being called for,

Messrs. *Benjamin, Boudousquie, Briant, Carriere, Cénas, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Ledoux, Legendre, Leonard, Lewis, Marigny, Mazureau, Preston, Ratliff, Roman, Roselius, St. Amand, Saunders, Sellers, Soulé, Taylor* of Assumption, and *Wadsworth*—35 yeas; and

Messrs. *Beatty, Bourg, Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Labauve, McCallop, McRea, Mayo, Pects, Penn, Porche, Porter, Prudhomme, Pugh, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Voorhies, Waddill, Wederstrandt*, and *Winder*—32 nays; consequently said motion prevailed.

Mr. Taylor of Assumption, then offered the following proviso, viz:

Provided, that at each apportionment hereafter to be made of the representation in the house of representatives, that part of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into election districts in such a manner that no one district shall elect more than two representatives.

Mr. Beatty moved to lay indefinitely on the table, the amendment and proviso, and the yeas and nays being called for,

Messrs. *Beatty, Benjamin, Boudousquie, Bourg, Briant, Carriere, Cenas Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Garcia, Grymes, Guion, Kenner, Labauve, Legendre, Marigny, Mazureau, Pugh, Roman, St. Amand, Saunders*, and *Sellers*—27 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade,*

Chambliss, Covillion, Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Ledoux, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Preston, Prudhomme, Ratliff, Read, Roselius, Scott of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Taylor* of Assumption, *Voorhies, Waddill, Wadsworth* and *Wederstrandt*—39 nays.

Mr. RATLIFF moved the reconsideration of the vote given, to strike out the proviso in the amendment of Mr. Downs, and the yeas and nays being called for,

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets Penn, Porche, Porter, Prudhomme, Pugh, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Voorhies, Wederstrandt* and *Winder* voted in the affirmative—31 yeas, and

Messrs. *Beatty, Benjamin, Bourg, Briant, Carriere, Cenas, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Eustis, Garcia, Grymes,, Guion, Hudspeth Kenner, King, Labauve, Ledoux, Legendre, Leonard, Lewis, Marigny, Mazureau, Preston, Roman, Roselius, St. Amand, Sellers, Taylor* of Assumption and *Wadsworth* voted in the negative—33 nays; consequently the motion was lost.

Mr. CLAIBORNE moved to lay on the table indefinitely the proviso of Mr. Taylor of Assumption, and called for the yeas and nays; which resulted as follows:

Messrs. *Beatty, Benjamin, Boudousquie, Bourg, Briant, Burton, Cénas, Chinn, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Guion, Labauve, Legendre, Marigny, Mazureau, Penn, Prudhomme, Pugh, Roman, Saunders* and *Sellers* voted in favor of the motion—26 yeas; and

Messrs. *Brazeale, Brent, Cade Carriere, Chambliss, Covillion, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Porche, Porter, Preston, Ratliff, Read, Roselius, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Taylor* of Assumption, *Voorhies, Waddill, Wadsworth, Wederstrandt* and *Winder* voted in the negative—36 nays; consequently the motion was lost.

On motion the Convention adjourned till to-morrow at 11 oclock, a. m.

NOTE.—Members absent—Messrs. Brumfield, O'Bryan, Prescott of St. Landry, and Taylor of St. Landry, absent on leave; Messrs. Prescott of Avoyelles and Trist, absent on account of illness, and Messrs. Aubert, Wikoff and Winchester did not appear in their seats.

SATURDAY, March 15, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings with prayer.

Mr. BEATTY, chairman of the committee appointed to enquire into the cause of the delay in printing the English reports of the proceedings of the Convention, submitted the following report and resolution, viz:

The committee appointed to enquire into the cause of the delay in printing the English reports of the proceedings of the Convention, respectfully submit,

That upon enquiry they have ascertained that the delay in printing has originated in the inability of Mr. Robert J. Kerr to furnish the necessary amount of copy to the printers. That he has constantly been many days behind hand with his copy, and was, on March 10th, only ready to furnish the copy of the proceedings of the 24th February. That according to his statement furnished the Convention, he is now ready to furnish copy of proceedings and debates up to date. They therefore recommend the adoption of the following resolution, all of which is respectfully submitted.

(Signed) J. C. BEATTY, Chairman of the committee.

Resolved, That the reporters in English be required, on the evening of the day succeeding any debates or proceedings of the house to furnish copy of those proceedings to the printers, obtain their receipt for the same, and file it with the secretary; and that on their failure so to do, the secretary shall report the fact to the Convention, and the delinquent be instantly removed from his post.

On motion of Mr. DUNN, said resolution was amended by striking out the words "and the delinquent be instantly removed from his post."

On motion, said resolution was adopted as amended, viz:

Resolved, That the reporters in English be required, on the evening of the day succeeding any debate or proceedings of the house, to furnish copy of those proceedings to the printers, obtain their receipt for the same, and file it with the secretary; and that on their failure so to do, the scretary shall report the fact to the Convention.

ORDER OF THE DAY.

Project of Mr. BENJAMIN on the legislative department.

SEC. 1. Representation shall be equal and uniform in this State, and each parish shall be entitled to representation, according to the total number of its population.

SEC. 2. In the year 1846, and every tenth year thereafter, a census shall be made of the total population of the State, in such manner as shall be prescribed by law.

SEC. 3. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the whole population, in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time that the divisor shall be contained in the dividend formed of its total population, and to one additional number from every fraction exceeding the one half of the divisor; and any parish having a total population less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment herein directed shall have been made.

SEC. 4. The first representation under this constitution, (ascertained as near as may be in accordance with the above principle, by assuming four thousand five hundred as a representative number,) shall continue until the first apportionment shall be made by the legislature, and shall be as follows:

First Municipality,	9
Second Municipality,	8
Third Municipality,	5
West Bank,	1
The Parish of Plaquemines,	1
" St. Bernard,	1
" Jefferson,	2
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
" Iberville,	2
" West Baton Rouge,	1
" East " "	2
" West Feliciana,	2
" East Feliciana,	2
" Livingston,	1
" St. Helena,	1
" Washington,	1
" St. Tammany,	1
" Point Coupée,	1
" Concordia,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	2
" Vermillion,	1
" Lafayette,	1
" St. Landry,	4
" Calcasieu,	1
" Avoyelles,	1
" Rapides,	3
" Natchitoches,	3
" Sabine,	1
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	1
" Claiborne,	1
" Bossier,	1
Total,	86

Which Mr DOWNS moved to amend by striking out after the word "State," the balance of said project, and insert in lieu thereof the following amendment, viz:

ARTICLE SECOND.

SEC. 6. Representation shall forever be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified voters therein; *Provided*, that each apportionment here-

eafter to be made of the representation in the house of representatives, that part of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into election districts, in such a manner that no one district shall elect more than two representatives, and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than four hundred square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. In the year, and every four years thereafter, an enumeration of all the electors shall be made, in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed, according to the principles of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any laws after the enumeration until the apportionment shall be made. Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: eight by the first municipality; eight by the second municipality; three by the third Municipality, and one by that part of the parish on the right bank of the Mississippi.

The Parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	2
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East " "	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
The Parish of	Pointe Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	4
"	Natchitoches,	4
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
	Total,	97

On motion of Mr. BENJAMIN the motion under consideration was laid on the table, subject to call.

Mr. DOWNS moved that the Convention take up the question just laid on the table subject to call, and called for the yeas and nays.

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wadsworth and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Burton, Cenas, Chinn, Claiborne, Culbertson, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Legendre, Leonard, Lewis, Marigny, Mazureau, Prudhomme, Pugh, Roman and Winder voted in the negative—26 nays; consequently said motion was carried.

Mr. BENJAMIN then submitted the following substitute, viz: *Provided*, that each of the three municipalities of New Orleans

be divided into two separate representative districts to be constituted as follows, viz:

All that portion of the first municipality situated above St. Peter street, and including the upper side of said street, shall form the first representative district of the first municipality, and the remainder of said first municipality shall form the second representative district of the first municipality. All that portion of the second municipality, situated above Delord street, Cour des Tritons street and the New Orleans canal, including the upper sides of said streets, shall form the first representative district of the second municipality, and the remainder of said municipality shall form the second representative district of the second municipality. All that portion of the third municipality, situated above Champs Elysees street, and including the upper side of said street, shall form the first representative district of the third municipality; and the remainder of said municipality shall form the second representative district of the third municipality.

Mr. Downs offered the following resolution, viz:

Resolved, That the substitute of Mr. Taylor of Assumption be referred to a committee composed of the delegates from the city of New Orleans, with instructions to report it back on Monday next, dividing New Orleans, on the left bank of the river, into ten representative districts.

Mr. Voorhies moved to amend said resolution by inserting the following words, to-wit:

"First municipality into three election districts; second municipality into three election districts; third municipality, two election districts.

Mr. Beatty moved for a division, that is, the Convention first proceed to strike out the word "ten;" which motion prevailed, and the said word "ten" was then stricken out.

The yeas and nays were then called for on the amendment of Mr. Voorhies, which resulted as follows:

Messrs. Boudousquie, Brazeale, Brent, Briant, Burton, Cade, Carriere, Chambliss, Covillion, Culbertson, Derbes, Downs, Garrett, Humble, Hynson, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porche, Porter, Preston, Prudhomme, Ratliff, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill and Wederstrandt, voted in the affirmative—36 yeas; and

Messrs. Beatty, Benjamin, Bourg, Cenas, Chinn, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Dunn, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Lewis, Mazureau, Pugh, Roman, Saunders, Sellers, Wadsworth and Winder, voted in the negative—23 nays; consequently said motion was carried.

On motion of Mr. Voorhies, the resolution, as amended, was adopted; and the President appointed Mr. Marigny chairman of the said committee.

Mr. Sellers then moved that the Convention adjourn till Monday next at 10 o'clock a. m.; and the yeas and nays being called for,

Messrs. Bouudosquie, Briant, Conrad of New Orleans, Garcia, Kenner, Marigny, Mazureau, Roman and Sellers voted for the adjournment—9 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Chinn, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Leonard, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porter, Preston, Prudhomme, Pugh, Ratliff, Read, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Winder voted against the adjournment—48 nays; consequently the same was lost.

Mr. Beatty moved to amend the amendment of Mr. Downs by striking out the words "in the year ——, and every four years thereafter, an enumeration of all the electors shall be made, in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, or during the next succeeding session of the general assembly, be so fixed according to the principles of this section, as not to be less than eighty, nor more than one hundred; *Provided*, that the general assembly shall be incompetent to pass any laws after the enumeration until the apportionment shall be made," and insert in lieu thereof—

Sec. —. In the year ——, and every tenth year thereafter, a census shall be

made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of the qualified electors in each parish.

SEC. —. At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the qualified electors as aforesaid, and in the manner following, to wit: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one half of the divisor—and any parish having a number of qualified electors less than the whole divisor, but exceeding one half of it, shall be entitled to one representative, and the legislature shall be incompetent to act on any other subject matter until the apportionment directed by this article shall have been made.

Which amendment was adopted.

On motion of Mr. LEWIS the amendment of Mr. Downs was amended by striking out four hundred miles, and inserting in lieu thereof six hundred and twenty-five.

Mr. BENJAMIN moved to amend by striking out the words "that each parish shall have at least one representative." The yeas and nays being called for—

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Briant, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Guion, Hudspeth, Kenner, King, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, Saunders, Soulé, Wadsworth and Winder voted in the affirmative—24 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, Leonard, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Voorhies, Waddill and Wederstrandt voted in the negative—31 nays; consequently said motion was lost.

Mr. BEATTY moved to refer to a committee composed of one member from each congressional district, the latter part of the amendment of Mr. Downs, fixing the number of representatives to each parish, and, pending the discussion on said motion,

Mr. KENNER moved that the Convention adjourn till Monday next, at 10 o'clock, A. M. The yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquié, Bourg, Briant, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Leonard, Lewis, McCallop, Marigny, Mazureau, Pugh, Roman, Roselius, Scott of Baton Rouge, Scott of Madison, Waddill, Wadsworth, and Winder voted in favor of the adjournment —30 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Humble, Hynson, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Saunders, Scott of Feliciana, Sellers, Splane, Stephens, Voorhies, and Wederstrandt voted against the adjournment—22 nays; consequently the same was carried.

Note—Members absent, Messrs. Brumfield, O'Bryan, Prescott of St. Landry, and Taylor of St. Landry, absent on leave—Messrs. Trist, and Prescott of Avoyelles absent on account of illness. Aubert, Labauve, St. Amand, Taylor of Assumption, and Winchester, did not appear in their seats.

MONDAY, March 17, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings by prayer.

On motion leave of absence was granted to Mr. Penn, on account of illness in his family.

On motion of Mr. SPLANE, it is ordered that arrangements be made for the reception of ladies.

The Secretary reported that Mr. Ker, the reporter of the debates in English had furnished the printers' receipt for the reports of the 28th February, 4th, 6th and 11th of March.

Mr. CENAS, a member of the committee to whom was referred the division of the city of New Orleans into eight representative districts, submitted the following report, viz:.

The committee composed of the delegation of New Orleans, to whom was referred the project of the division of the city of New Orleans for the choice of representatives to the house of representatives, into eight districts, report—

That the division of the three municipalities into eight districts is inconvenient and difficult to be carried into effect, so as to secure a just and equal representation, and it is therefore recommended that the number of districts be reduced to six, each municipality being divided into two election districts.

The following division, although far from being satisfactory to the committee, is the only one, dividing the city into eight districts, upon which they have been able to agree, viz:

1st. First district—To extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, and thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of Canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the Bayou St. John, thence along the middle of said Bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district—To be composed of all that portion of the third municipality above the Ponchartrain rail road.

8th. Eighth district—To be composed of all that part of the third municipality below the Ponchartrain rail road.

Mr. CENAS moved that the report be laid on the table, subject to call; which motion was lost.

Mr. VOORHIES moved that the report be taken into consideration with the section relative thereto; which motion was adopted.

On motion of Mr. BRENT, that part of the report dividing the city into eight representative districts was adopted—and the balance of said report laid on the table indefinitely.

ORDER OF THE DAY.

The substitute offered by Mr. Downs to the project of Mr. Benjamin, and amended by Mr. Beatty, viz:

Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein: and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such parish would leave any other parish without the said extent of territory and number of electors.

In the year ——, and every tenth year thereafter, a census shall be made of the population of the State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified voters in each parish.

At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation among the several parishes on the basis of the qualified voters as aforesaid, and in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the apporment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a devisor, and each parish shall be entitled to one representative for every time this devisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one half of the divisor; and any parish having a number of qualified voters less than the whole divisor, but exceeding one half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any subject matter till the apportionment directed by this article shall have been made.

That part of the parish of Orleans situated on the left bank of the Mississippi river, shall be divided into eight districts, as follows, viz:

1st. First district—To extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of Canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the Bayou St. John, thence along the middle of said Bayou St. John until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district—To be composed of all that portion of the third municipality above the Ponchartrain rail road.

8th. Eighth district—To be composed of all that part of the third municipality below the Ponchartrain rail road.

Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: Eight by the first municipality; eight by the second municipality; three by the third municipality, and one by that part of the parish on the right bank of the Mississippi.

The Parish of Plaquemines,	2
" St. Bernard,	1
" Jefferson,	3
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	2
" Lafourche Interior,	2
" Terrebonne,	2
" Iberville,	2
" West, Baton Rouge,	1
" East "	3
" West Feliciana,	2
" East "	3
" St. Helena,	1
" Livingston,	1
" Washington,	1
The parish of St. Tammany,	1
" Point Coupeé,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	3
" Vermillion,	1
" Lafayette,	2
" St. Landry,	5
" Calcasieu,	1
" Avoyelles,	2
" Rapides,	4
" Natchitoches,	4
" Sabine,	2
" Caddo,	1
" De Soto,	1
" Ouachita	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	2
" Claiborne,	2
" Bossier,	1
Total,	97

Mr. Mayo moved to reconsider the vote given on the adoption of the following amendment offered by Mr. Beatty, viz:

Sec. 10. In the year ——, and every tenth year thereafter, a census shall be made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified electors in each parish.

Sec. 11. At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the qualified electors as aforesaid, and in the manner following, to wit: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one half of the divisor—and

any parish having a number of qualified voters less than the whole divisor, but exceeding one half of it, shall be entitled to one representative, and the legislature shall be incompetent to act on any other subject matter until the apportionment directed by this article shall have been made.

The yeas and nays being asked for—

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porche*, *Porter*, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Voorhies*, *Waddill*, *Wadsworth*, and *Wederstrandt*, voted in the affirmative—26 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Ledoux*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *Saunders*, *Sellers*, *Taylor* of Assumption, *Trist*, *Winchester*, and *Winder*, voted in the negative—28 nays; consequently the motion was lost.

Mr. Beatty moved to refer to a special committee composed of one member from each congressional district, that part of the section fixing the number of representatives to each parish, and the yeas and nays being called for—

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Guion*, *Hudspeth*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Taylor* of Assumption, *Trist*, *Wadsworth*, *Winchester*, and *Winder*, voted in the affirmative—25 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Dowhs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *King*, *Ledoux*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porche*, *Porter*, *Prudhomme*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Voorhies*, *Waddill* and *Wederstrandt*, voted in the negative—30 nays; the motion was lost.

The apportionment of the city of New Orleans was suspended for the consideration of the Orleans delegation.

Mr. Brent then moved for the adoption of that part of the section fixing the representation of each parish.

Mr. Benjamin moved for a division, that is, the Convention act on the representation of each parish separately; which motion prevailed.

The Convention then called the parishes as follows, viz:

The Parish of Plaquemine shall be entitled to two representatives, adopted,			2
The Parish of St. Bernard, one,	"		1
"	Jefferson, three,	"	3
"	St. Charles, one,	"	1
"	St John Baptist one,	"	1
"	St. James, two,	"	2
"	Ascension, two,	"	2
"	Assumption, two,	"	2

The parish of Lafourche Interior shall be entitled to two representatives.

Mr. Beatty moved to amend by inserting "three," instead of "two;" and called for the yeas and nays.

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Legendre*, *Lewis*, *McCallop*, *Marigny*, *Mazuraeu*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Taylor* of Assumption, *Trist*, *Wadsworth*, *Winchester*, and *Winder* voted in the affirmative—32 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Hynson*, *Ledeaux*, *McRae*, *Mayo*, *Peets*, *Porshe*, *Porter*, *Prudhomme*, *Read*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Voorhies*, *Waddill*, and *Wederstrandt*, voted in the negative—26 nays; the motion was carried.

The section as amended was adopted, viz: "the parish of Lafourche interior shall be entitled to three representatives."

Mr. Wadsworth moved for the re-consideration of the vote given on the adoption of the representation of the Parish of Plaquemines, and called for the yeas and nays, and

Messrs. *Aubert*, *Beatty*, *Bourg*, *Briant*, *Carriere*, *Claiborne*, *Conrad* of New Orleans, *Culbertson*, *Derbes*, *Eustis*, *Guion*, *Ledoux*, *Legendre*, *Leonard*, *Marigny*, *Porche*, *Pugh*, *St. Amand*, *Taylor* of Assumption, *Trist*, *Waddill*, *Wadsworth* and *Winchester* voted in the affirmative—23 yeas; and

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Conrad* of Jefferson,

Covillion, Downs, Dunn, Garrett, Hudspeth, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Mazureau, Peets, Porter, Prudhomme, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Voorhies*, and *Wederstrandt* voted in the negative—38 nays; said motion was therefore lost.

Mr. Taylor of Assumption moved for the re-consideration of the vote giving two representatives to the parish of Assumption. The yeas and nays being called for,

Messrs. *Aubert, Beatty, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Derbes, Dunn, Eustis, Guion, Ledoux, Legendre, Leonard, Marigny, Mazureau, Pugh, Roman, St. Amand, Saunders, Taylor* of Assumption, *Trist, Wadsworth, Winchester* and *Winder* voted in the affirmative—27 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Roselius, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Voorhies, Waddill* and *Wederstrandt* voted in the negative—31 nays; consequently said motion was lost.

On motion, the representation of the parish of Terrebonne was fixed at two representatives; the parish of Iberville fixed at two representatives; and the parish of West Baton Rouge fixed at one representative.

On the motion to fix the representation of the Parish of East Baton Rouge at three representatives,

Mr. Winchester moved to insert "two" instead of "three" representatives. The yeas and nays being called for,

Messrs. *Bourg, Conrad* of Jefferson, *Legendre, Leonard, Mazureau, Roman, St. Amand, Sellers* and *Winchester* voted in the affirmative—9 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cenas, Chambliss, Claiborne, Conrad* of New Orleans, *Covillion, Culbertson, Derbes, Downs, Dunn, Garrett, Guion, Humble, Hynson, King, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porche, Porter, Prudhomme, Pugh, Read, Roselius, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Taylor* of Assumption, *Trist, Voorhies, Waddill, Wadsworth, Wederstrandt* and *Winder* voted in the negative---49 nays; consequently the motion was lost, and the representation of said parish of East Baton Rouge was fixed at three representatives.

On motion the representation of the parish of West Feliciana was fixed at two representatives.

On motion the representation of the parish of East Feliciana was fixed at three representatives.

On motion the representation of the parish of St. Helena was fixed at one representative.

The parish of Livingston to be entitled to one representative.

Mr. McRae moved to amend the representation of the Parish of Livingston, by inserting "two" instead of "one" representative. The yeas and nays being called for,

Messrs. *Dunn, Garrett, Hudspeth, McRae, Porche* and *Saunders* voted in the affirmative—6 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbés, Downs, Guion, Humble, Hynson, King, Ledoux, Legendre, Leonard, Lewis McCallop, Marigny, Mayo, Mazureau, Peets, Porter Prudhomme, Pugh, Read, Roman, Roselius, St. Amand, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Taylor* of Assumption, *Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester* and *Winder* voted in the negative—53 nays; consequently the motion was lost, and the representation of the parish of Livingston, was fixed at one representative.

On motion the representation of the parish of Washington was fixed at one representative.

On motion the representation of the parish of St. Tammany was fixed at one representative.

The representation of the parish of Point Coapée, fixing the same at one representative.

Mr. Ledoux moved to amend the same by inserting "two," instead of "one" repre-

sentative. The yeas and nays being called for,

Messrs. *Dunn, Guion, Ledoux, Legendre, Marigny, Porche, Pugh, Saunders, Taylor* of Assumption, and *Wederstrandt* voted in favor of said motion—10 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Downs, Garrett, Hudspeth, Humble, Hynson, King, Leonard, Lewis, McCallop, McRae, Mayo, Mazureau, Peets, Prudhomme, Read, Roman, Roselius, St. Amand, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott of* Madison, *Sellers, Splane, Stephens, Trist, Voorhies, Waddill, Winchester* and *Winder* voted against the motion—47 nays; consequently the same was lost, and the representation of the said parish of Point Coupée was fixed at one representative.

On motion, the representation of the parish of Concordia was fixed at one representative.

On motion, the representation of the parish of Tensas was fixed at one representative.

On motion, the representation of the parish of Madison was fixed at one representative.

On motion, the representation of the parish of Carroll was fixed at one representative.

On motion, the representation of the parish of Franklin was fixed at one representative.

On motion, the representation of the parish of St. Mary was fixed at two representatives.

On motion, the representation of the parish of St. Martin was fixed at three representatives.

On motion, the representation of the parish of Vermillion was fixed at one representative.

On motion, the representation of the parish of Lafayette was fixed at two representatives.

On motion, the representation of the parish of St. Landry was fixed at five representatives.

On motion, the representation of the parish of Calcasieu was fixed at one representative.

On motion, the representation of the parish of Avoyelles was fixed at two representatives.

The representation of the parish of Rapides, fixing it at four representatives, being taken up,

Mr. Taylor of Assumption, moved to amend the same by inserting "three," instead of "four" representatives. The yeas and nays being called for,

Messrs. *Aubert, Beatty, Benjamin, Bourg, Briant, Carriere, Cenas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, King, Ledoux, Legendre, Leonard, Lewis, McCallop, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Taylor* of Assumption, *Trist, Wadsworth, Winchester* and *Winder* voted in the affirmative—35 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Humble, Hynson, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Voorhies, Waddill* and *Wederstrandt* voted in the negative—24 nays; the motion was carried, and the representation of said parish of Rapides was fixed at three representatives.

The representation of the parish of Natchitoches, fixing it at four representatives, being taken up,

Mr. Guion moved to amend the same by inserting "three," instead of "four" representatives. The yeas and nays being called for,

Messrs. *Aubert, Beatty, Benjamin, Bourg, Briant, Carriere, Cenas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, King, Ledoux, Legendre, Leonard, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Taylor* of Assumption, *Trist, Winchester* and *Winder* voted in the affirmative—23 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Humble, Hynson, Mayo, McCallop, McRae, Peets, Porche, Porter, Prudhomme, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Voorhies, Waddill, Wadsworth* and *Wederstrandt* voted in the negative—26 nays; consequently the motion was carried, and the representation of the aforesaid parish of Natchitoches was fixed at three representatives.

Mr. BRENT gave notice that he would on to-morrow, move to re-consider the vote given on the adoption of the representation of the parish of St. Landry.

On motion, the Convention adjourned till to-morrow at 10 o'clock, a. m.

NOTE.—Members absent: Messrs. Brumfield, O'Bryan, Prescott of St. Landry, Taylor of St. Landry, and Wikoff, absent on leave. Messrs. Penn and Prescott of Avoyelles, absent on account of illness; and Messrs. Boudousquié, Chinn, Garcia, Grymes, Kenner, Labauve, Preston, and Soulè did not appear in their seats.

TUESDAY, March 18, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. BEATTY opened the proceedings with prayer.

The secretary reported the receipt of the printers from Mr. Kerr, for the debates of the Convention, to the 13th instant.

Mr. VOORHIES submitted the following resolution, viz:

Resolved, The right of suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, or a non-commissioned officer, soldier, seaman or marine in the service of the United States, or by any person convicted of a crime deemed by law felony; which resolution was ordered to be printed.

Mr. READ submitted the following resolutions, viz:

Resolved, That the printers of the English reports of the proceedings of the Convention be directed to publish said proceedings in the Jeffersonian Republican daily, or otherwise, as shall best enable them to bring up the debates, and continue their publication the days succeeding those in which the reports are furnished them.

Resolved, That the committee on contingent expenses be instructed to allow said printers such sums as in their estimation will cover the additional expense incurred.

Mr. KENNER moved for a division—that is, the Convention act on each resolution separately; which motion prevailed.

The yeas and nays being called for on the adoption of the first resolution, resulted as follows, (Mr. Saunders in the chair:)

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Carriere*, *Cénas*, *Domns*, *Dunn*, *Humble*, *Hynson*, *Ledoux*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Porter*, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Taylor* of Assumption, *Waddill* and *Wederstrandt* voted in the affirmative—25 yeas; and

Messrs. *Aubert*, *Beatty*, *Bourg*, *Briant*, *Burton*, *Chambliss*, *Cade*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Garrett*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Porche*, *Pugh*, *Roman*, *St. Amand*, *Sellers*, *Stephens*, *Trist*, *Voorhies*, *Wadsworth* and *Winchester* voted in the negative—33 nays; the motion was therefore lost.

On motion of Mr. KENNER, the second resolution was rejected.

Mr. GARRETT submitted the following resolution, viz:

Resolved, That permission be given Mr. Hardinge to deliver lectures in this hall, on to-morrow evening.

On motion of Mr. WADSWORTH, said resolution was laid on the table indefinitely.

ORDER OF THE DAY.

Mr. DOWNS' substitute to the project of Mr. Benjamin, and amended by Mr. Beatty, viz:

Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein: and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such parish would leave any other parish without the said extent of territory and number of electors.

In the year ——, and every tenth year thereafter, a census shall be made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified voters in each parish.

At the first regular session of the legislature, after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the qualified voters as aforesaid, and in the manner following, viz: Some number shall be chosen as a representative number, which, when applied in making the appor-

tionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor; and any parish having a number of qualified voters less than the whole divisor, but exceeding one-half of it, shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter till the apportionment directed by this article shall have been made.

That part of the parish of Orleans situated on the left bank of the Mississippi river, shall be divided into eight representative districts, as follows, viz:

1st. First district—To extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, and thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of Canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the Bayou St. John, thence along the middle of said Bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district—To be composed of all that portion of the third municipality above the Pontchartrain rail road.

8th. Eighth district—To be composed of all that part of the third municipality below the Pontchartrain rail road.

Until the first enumeration shall be made as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: eight by the first municipality, eight by the second municipality, three by the third municipality, and one by that part of the parish on the right bank of the Mississippi.

The parish of	Plaquemines,	2
"	St. Bernard,	1
"	Jefferson,	3
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	2
"	Lafourche Interior,	3
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East, do	3
"	West Feliciana,	2
"	East, do	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
	Total,	97

The Convention, at the adjournment on yesterday, had under consideration the apportionment of representation of the following parishes as follows, viz:

The parish of	Sabine,	2
"	Caddo,	1
"	De Soto,	1

Parish of	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1

On motion, the representation of the parish of Sabine was fixed at two representatives.

On motion, the representation of the parish of Caddo was fixed at one representative.

On motion, the representation of the parish of De Soto was fixed at one representative.

On motion, the representation of the parish of Ouachita was fixed at one representative.

On motion, the representation of the parish of Morehouse was fixed at one representative.

On the motion to fix the representation of the parish of Union at one representative,

Mr. GARRETT moved to amend the same by inserting "two" instead of "one," and called for the yeas and nays. (Mr. Saunders in the chair.)

Messrs. *Downs*, *Garrett*, *Humble* and *McCallop*, voted in the affirmative—4 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Porche*, *Porter*, *Prudhomme*, *Pugh*, *Read*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Winchester* voted in the negative—54 nays; consequently the motion was lost, and the representation of the said parish of Union was fixed at one representative.

On motion of Mr. VOORHIES the vote given on yesterday on the reconsideration of the representation of the parish of Plaquemines was reconsidered.

Mr. VOORHIES then moved to amend said representation by inserting "three" instead of "two" representatives, and the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. *Brazeale*, *Brent*, *Briant*, *Burton*, *Carriere*, *Chambliss*, *Culbertson*, *Derbes*, *Downs*, *Humble*, *Hynson*, *Ledoux*, *Leonard*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Porche*, *Porter*, *Prudhomme*, *Pugh*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill*, *Wadsworth* and *Wederstrandt* voted in the affirmative—33 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Cade*, *Cenas* *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Roman*, *St. Amand*, *Sellers*, *Stephens* and *Winchester* voted in the negative—25 nays; the said motion was adopted, and the representation of the parish of Plaquemines was fixed at three representatives.

Mr. LEWIS moved to reconsider the vote given on yesterday on the representation of the parishes of Rapides, Natchitoches and Assumption.

Mr. KENNER moved for a division—that is, the reconsideration of each parish be acted on separately, which motion prevailed.

Mr. BRAZEALE then moved for the reconsideration of the parish of Natchitoches, and the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porche*, *Porter*, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Voorhies*, *Waddill*, *Wadsworth* and *Wederstrandt* voted in the affirmative—27 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of Assumption, *Winchester* and *Winder* voted in the negative—31 nays; consequently said motion was lost.

Mr. BRENT moved to reconsider the vote on the representation of Rapides, and called for the yeas and nays.

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Voorhies, Waddill, Wadsworth and Wederstrandt, voted in the affirmative—27 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Saunders, Sellers, Taylor of Assumption, Winchester and Winder voted in the negative—31 nays; consequently the motion was lost.

Mr. TAYLOR of Assumption, then moved to reconsider the vote on the representation of the parish of Assumption, and the yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Carriere, Cénas, Claiborne, Conrad of New Orleans, Culbertson, Derbes, Dunn, Garcia, Guion, Kenner, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mazureau, Pugh, Roman, St. Amand, Scott of Baton Rouge, Splane, Taylor of Assumption, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—32 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Conrad of Jefferson, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Voorhies, and Waddill, voted in the negative—27 nays; consequently the motion was carried.

Mr. TAYLOR of Assumption, moved to amend by inserting "three" instead of "two," and the yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cenas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Guion, Kenner, Labauve, Ledeaux, Legendre, Lewis, McCallop, Marigny, Mazureau, Pugh, Roman Roselius, St. Amand, Scott of Baton Rouge-Taylor of Assumption, Wadsworth, Winchester and Winder voted in the affirmative—31 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, King, McRae, Mayo, Peets, Porche, Porter, Prudhomme, Read, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Voorhies, Waddill and Wederstrandt voted in the negative—28 nays; consequently said motion was carried, and the representation of the parish of Assumption was fixed at three representatives.

Mr. HUMBLE moved to reconsider the vote given on the adoption of the representation of the parish of St. Landry, and the yeas and nays being called for,

Messrs. Brazeale, Brent, Burton, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, Mayo, Porche, Porter, Prudhomme, Scott of Baton Rouge, Scott of Madison, and Splane voted in the affirmative—17 yeas; and

Messrs. Aubert, Beatty, Benjamin, Briant, Cade, Carriere, Cénas, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Peets, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Voorhies, Waddill, Wadsworth, Winchester and Wederstrandt voted in the negative—42 nays; consequently said motion was lost.

That part of the section in relation to the apportionment of the representation of the parish of Orleans, having been suspended on yesterday, was called up, viz:

The parish of Orleans shall be entitled to twenty representatives, to be elected as follows: Eight by the first municipality; eight by the second municipality; three by the third municipality, and one by that part of the parish on the right bank of the Mississippi.

Mr. BRENT moved to amend the same by inserting "sixteen" instead of "twenty" representatives.

And pending the discussion on said motion,

Mr. DOWNS moved that the Convention adjourn till to-morrow, at 10 o'clock, a. m. the yeas and nays being called for,

Messrs. Brent, Briant, Covillion, Culbertson, Downs, Eustis, Garcia, Humble, Hynson, King, Lewis, McCallop, McRae

Marigny, Peets, Porche, Porter, Prudhomme, Read, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Stephens, Waddill, Wadsworth, Wederstrandt and Winder voted in the affirmative—30 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Burton, Cade, Carriere, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, Legendre, Mayo, Mazureau, Preston, Pugh, Roman, St. Amand, Taylor of Assumption, Voorhies, and Winchester voted in the negative—28 nays; consequently the motion was carried, and the Covention adjourned till to-morrow, at 10 o'clock, a. m.

Note—Members absent, Messrs. Brumfield, O'Bryan, Prescott of St. Landry, Taylor of St. Landry, and Wikoff, absent on leave—Messrs. Prescott of Avoyelles and Penn, absent on account of illness—and Messrs. Boudousquie, Chinn, Ratliff, and Soulé, did not appear in their seats.

WEDNESDAY, March 19, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. HINTON opened the proceedings with prayer.

Mr. SOULE was excused for non-attendance on account of illness.

Mr. Ilsley, one of the reporters in English, was excused on account of illness, and Mr. Henderson permitted to act in his stead.

ORDER OF THE DAY.

The substitute of Mr. Downs to the project of Mr. Benjamin, and amended by Mr. Beatty, viz:

Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified voters therein, and that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

In the year ——, and every tenth year hereafter, a census shall be made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified voters in each parish.

At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of the qualified voters as aforesaid, and in the manner following, viz: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one half of the divisor; and any parish having a number of qualified voters less than the whole divisor but exceeding one half of it, shall be entitled to one representative, and the legislature shall be incompetent to act on any other subject matter until the apportionment directed by this article shall have been made.

That part of the parish of Orleans situated on the left bank of the Mississippi, shall be divided into eight representative districts, as follows, viz:

1st. First district—To extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of Canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentionted limits to the middle of St. Philip street, thence down said street until its intersection with they Bayou St. John, thence along the middle of said Bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district—To be composed

of all that portion of the third municipality above the Pontchartrain rail road.

8th. Eighth district—To be composed of all that part of the third municipality below the Pontchartrain rail road.

Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows: Eight by the first municipality; eight by the second municipality; three by the third municipality, and one by that part of the parish on the right bank of the Mississippi.

The Parish of	Plaquemines,	3
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	3
"	Lafourche Interior,	3
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East do do	3
"	West Feliciana,	2
"	East do	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
The parish of	Claiborne,	2
"	Bossier,	1
Total,		98

The question under consideration at the adjournment was the motion of Mr. Brent, to reduce the representation of the city of New Orleans from twenty to sixteen members.

Mr. Brazeale moved to amend said motion as follows, viz: The first municipality shall be entitled to seven representatives; the second municipality shall be entitled to five representatives; the third municipality shall be entitled to three representatives, and that part of the parish on the right bank of the Mississippi shall be entitled to one representative; which amendment was accepted by Mr. Brent.

Mr. Benjamin moved to lay both amendments on the table indefinitely, and called for the yeas and nays, which resulted as follows, viz:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Leonard*, *Lewis*, *Marigny*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Soulè*, *Taylor* of Assumption, *Trist*, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—40 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the negative—31 nays; consequently said motion was carried.

Mr. Brent moved that before reference, the committee be instructed to district the representation of the parish of Orleans as follows, viz: eight representatives to the first municipality; five to the second municipality; three to the third municipality, and one to the right bank.

Mr. Grymes moved for the previous question.

The President then put the question—

shall the main question be now put? the yeas and nays being called for, resulted as follows:

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Carriere, Cénas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Soulé, Taylor* of Assumption, *Trist,s, Wadsworth, Winchester* and *Winder* voted in the affirmative—40 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Porche, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Taylor* of St. Landry, *Voorhies, Waddill, Wederstrandt,* and *Wikoff* voted in the negative—30 nays; consequently said motion was carried.

Mr. Grymes then moved for the adoption of the apportionment of the parish of Orleans, fixing the representation of the same at twenty representatives. The yeas and nays being called for, resulted as follows:

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Carriere, Cénas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, St. Amand, Saunders, Soulé, Taylor* of Assumption, *Trist, Wadsworth, Winchester,* and *Winder* voted in the affirmative—39 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Taylor* of St. Landry, *Voorhies, Waddill, Wederstrandt* and *Wikoff,* voted in the negative—31 nays; consequently said motion was carried, and the representation of the parish of Orleans fixed at twenty representatives.

On motion of Mr. Beatty, the apportionment of the representation of the parish of Orleans, among the eight representative districts, was referred to the city delegation.

The President appointed Mr. Marigny chairman of said committee.

On motion, the Convention adjourned till to-morrow at 10 o'clock, a. m.

Note—Members absent: Messrs. Brumfield and O'Bryan, absent on leave; Mr. Penn, absent on account of illness in his family, and Messrs. Chinn and Ratliff did not appear in their seats.

Thursday, March 20, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

The secretary reported the receipt of the printers to the Convention, to Mr. Robt. L. Kerr, the reporter in English, for the reports of the debates to the 15th inst.

Mr. Cenas, a member of the committee composed of the delegation of New Orleans, to whom was referred the apportionment among the three municipalities of he representatives allotted to the same, reported as follows, viz:

The committee composed of the delegation of New Orleans, to whom was referred the apportionment among the three municipalities of the representatives allotted to the same, report, viz: that they have apportioned the said representation among the said municipalities as follows, by allotting to the

First Municipality,	eight	representatives.
Second	do.	seven do.
Third	do.	four do.

Which they have distributed among the eight representative or election districts, into which the three municipalities have been subdivided as follows, by allotting to the

1st district,	two	representatives.	
2d	"	two	"
3d	"	three	"
4th	"	three	"
5th	"	three	"
6th	"	two	"
7th	"	two	"
8th	"	two	"

Mr. Winchester moved to lay said re-

port on the table, subject to call, which motion was lost.

On motion of Mr. BRENT, said report was adopted.

Mr. RATLIFF, chairman of the committee on contingent expenses, offered the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses, be authorized to pay James Carpenter, sergeant at arms, the sum of thirty-four dollars, in compensation for the hire of Leon, f. m. c. thirty-four days, to assist in cleaning the Convention hall, and waiting upon the Convention, &c.

ORDER OF THE DAY.

Substitute of Mr. Downs to the project of Mr. Benjamin, and amended by Mr. Beatty.

SEC. 6. Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein: *Provided*, that each parish shall have at least one representative; and provided further, that no parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such parish would leave any other parish without the said extent of territory and number of electors.

In the year and every tenth year thereafter, a census shall be made of the population of this State, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified electors in each parish.

At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes, on the basis of the qualified electors as aforesaid, and in the manner following, viz: some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one half of the divisor, and any parish having a number of qualified electors less than the whole divisor, but exceeding one half of it, shall be entitled to one representative, and the legislature shall be incompetent to act on any other subject matter until the apportionment directed by this article shall have been made.

That part of the parish of Orleans, situated on the left bank of the Mississippi, shall be divided into eight representative districts, as follows, viz:

1st. First district—To extend from the line of the parish of Jefferson, to the middle of Benjamin, Estelle, and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of Canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the bayou St. John, thence along the middle of said bayou, until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district---To be composed of all that portion of the third municipality, above the Pontchartrain rail road.

8th. Eighth district---To be composed of all that part of the third municipality, below the Pontchartrain rail road.

Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows:

Eight by the first municipality, seven by the second municipality, four by the third municipality; to be divided among the eight representative or election districts, into which the three municipalities have

been subdivided, as follows, by allotting to the

1st district, two representatives.
2d " two "
3d " three "
4th " three "
5th " three "
6th " two "
7th " two "
8th " two "

And one by that part of the parish on the right bank of the Mississippi.

The Parish of	Plaquemines,	3
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	3
"	Lafourche Interior,	3
"	Terrebonne,	2
"	Iberville,	2
"	West, Baton Rouge,	1
"	East "	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Livingston,	1
"	Washington,	1
"	St. Tammany,	1
"	Point Coupeé,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
"	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
The parish of	Bossier,	1
	Total,	98

On motion of Mr. CLAIBORNE, the vote on the adoption of the sub-division of the city of New Orleans into eight representative districts, was re-considered, and the same divided into nine election or representative districts.

Mr. CLAIBORNE then offered the following amendment, which was adopted, viz:

"Seventh district, from the middle of Esplanade street to the middle of Champs Elysees street.

"Eighth district, from the middle of Champs Elysies street to the middle of Enghein street and Lafayette avenue.

"Ninth district, from the middle of Engheim street and Lafayette avenue, to the lower limits of the parish."

Mr. VOORHIES moved to fill the blank in said section with the year "1851," which motion was lost.

Mr. LEWIS moved to fill the blank with "1850," which motion was lost.

Mr. BENJAMIN moved to insert, in lieu of the blank, the following words, viz: "the first census to be taken by the State authorities under this constitution, shall be taken in the year 1847; the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter." Which motion was adopted.

Mr. DUNN offered the following proviso, viz:

"*Provided*, That at all future apportionments to be made by the legislature, under this constitution, every parish having a population of five thousand inhabitants (including slaves) shall always be entitled to two representatives; and a population of ten thousand inhabitants, three representatives."

Mr. VOORHIES moved that said proviso be laid on the table indefinitely; and the yeas and nays being called for, resulted as follows:

Messrs. *Beatty, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Burton, Cade, Carriere, Cenas, Chambliss, Claiborne, Covillion, Culbertson, Derbes, Downs, Grymes, Humble, Hynson, Kenner, King, Labauve, Legendre, Leonard, Lewis, McCallop, McRae, Mayo, Mazureau, O'Bryan, Pects, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff, Read, Roman,*

Roselius, *Saunders*, *Scott* of Baton Rouge, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the affirmative—51 yeas; and

Messrs. *Aubert*, *Dunn*, *Hudspeth*, *Porche*, *Pugh*, *St. Amand*, *Sellers* and *Winchester* voted in the negative—8 nays; consequently said motion was carried.

Mr. SELLERS gave notice that he would, on a future day, move to reconsider the vote rejecting the proviso, fixing the maximum of any city or parish at twenty representatives.

Mr. BRAZEALE gave notice that he would, on a future day, move to reconsider the vote fixing the representation of Natchitoches at three representatives.

Mr. O'BRYAN moved for a dispensation of the rule; which motion was lost.

Mr. DUNN gave notice that he will move the reconsideration of the vote fixing the representation of the parish of Plaquemines at three representatives.

Mr. GARCIA gave notice that he will move to reconsider the vote fixing the apportionment of the parish of St. John the Baptist.

Mr. MARIGNY gave notice that he will move the reconsideration of the vote fixing the apportionment of the parish of Point Coupée.

Mr. VOORHIES then moved for the adoption of the section as amended, viz:

ARTICLE SECOND—LEGISLATIVE DEPARTMENT.

SEC. 6. Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the umber of qualified electors therein; *provided*, that each parish shall have at least one representative; and *provided further*, that no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first census to be taken by the State authorities under this constitution shall be taken in the year 1847, the second in the year 1855, and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified electors in each parish.

At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes, on the basis of qualified electors as aforesaid, and in the manner following, viz:

"Some number shall be chosen as a representative number, which, when applied in making the apportionment, shall give a number of representatives not less than seventy, nor more than one hundred; the number so chosen shall be taken as a divisor, and each parish shall be entitled to one representative for every time this divisor shall be found in the dividend formed of its representative population, and to one additional member for every fraction exceeding the one-half of the divisor; and any parish having a number of qualified electors less than the whole divisor shall be entitled to one representative; and the legislature shall be incompetent to act on any other subject matter until the apportionment, directed by this article, shall have been made.

That part of the parish of Orleans situated on the left bank of the Mississippi shall be divided into nine representative districts, as follows, viz:

1st. First district—To extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district—To extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district—To comprise the residue of the second municipality.

4th. Fourth district—To extend from the middle of Canal street to the middle of St. Louis street, until it shall reach the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district—To extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the bayou St. John, thence along the middle of said bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district—To be composed of the residue of the first municipality.

7th. Seventh district—From the middle of Esplanade street to the middle of Champs Elysees street.

8th. Eighth district—From the middle of Champs Elysees street to the middle of Engheim street and Lafayette avenue.

9th. Ninth district—From the middle of Enghein street and Lafayette avenue to the lower limits of the parish.

Until the first enumeration shall be made, as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows, viz:

Eight by the first municipality; seven by the second municipality; and four by the third municipality; to be distributed among the nine representative districts as follows: By allotting to the

First district, two representatives.
Second district, two representatives.
Third district, three representatives.
Fourth district, three representatives.
Fifth district, three representatives.
Sixth district, two representatives.
Seventh district, two representatives.
Eighth district, one representative.
Ninth district, one representative.

And one by that part of the parish on the right bank of the Mississippi.

The parish of	Plaquemines,	3
"	St. Bernard,	1
"	Jefferson,	3
"	St. Charles,	1
"	St. John the Baptist,	1
"	St. James,	2
"	Ascension,	2
"	Assumption,	3
"	Lafourche Interior,	3
"	Terrebonne,	2
"	Iberville,	2
"	West Baton Rouge,	1
"	East Baton Rouge,	3
"	West Feliciana,	2
"	East "	3
"	St. Helena,	1
"	Washington,	1
"	Livingston,	1
"	St. Tammany,	1
"	Point Coupée,	1
"	Concordia,	1
"	Tensas,	1
"	Madison,	1
"	Carroll,	1
The parish of	Franklin,	1
"	St. Mary,	2
"	St. Martin,	3
"	Vermillion,	1
"	Lafayette,	2
"	St. Landry,	5
"	Calcasieu,	1
"	Avoyelles,	2
"	Rapides,	3
"	Natchitoches,	3
"	Sabine,	2
"	Caddo,	1
"	De Soto,	1
"	Ouachita,	1
"	Morehouse,	1
"	Union,	1
"	Jackson,	1
"	Caldwell,	1
"	Catahoula,	2
"	Claiborne,	2
"	Bossier,	1
	Total,	98

On motion to adopt the above section as amended, the yeas and nays being called for, resulted as follews :

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Labauve*, *Ledoux*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roselius*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soule*, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder*, voted in the affirmative—50 yeas; and

Messrs. *Boudousquie*, *Claiborne*, *Dunn*, *Kenner*, *Legendre*, *Marigny*, *Porter*, *Roman*, *Saunders*, *Sellers*, *Taylor* of St. Landry, and *Wikoff*, voted in the negative —12 nays, consequently the same was adopted.

On motion of Mr. Downs, the Convention took up the 10th section of the report of the majority on the legislative department, and the report of the minority offered by Mr. Downs as a substitute to the said 10th section, both of which had been laid on the table, subject to call, viz:

Section 10th of the majority report.

The State shall be divided into eight sen-

atorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall compose the first district.

The parishes of Plaquemines, St. Bernard and the remainder of the parish of Orleans, parish of Jefferson, St Charles and St. John the Raptist, shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupée and Avoyelles, shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carroll, Madson, Ouachita, Union, Franklin, Tensas, Morehouse, Catahula and Caldwell, shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, that the legislature shall have the power in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

Report of the minority offered by Mr. Downs as a substitute for the foregoing 10th section, viz:

"The senate shall consist of thirty-two members, to be elected for four years, by the voters qualified to vote for representatives, and at the same; one half every two years, and the apportionment of senators shall be made as follows:

The parishes of Plaquemines and St. Bernard, and that portion of the parish of Orleans on the right bank of the Mississippi river shall have one senator.	1
The parish of Orleans—	
For first municipality,	2
Second do,	1
Third municipality,	1
The parish of Jefferson,	1
" St. John the Baptist and St. Charles,	1
" St. James,	1
" Ascension and Assumption,	1
" Lafourche and Terrebonne,	2
" Iberville and West Baton Rouge,	1
" East " "	1
" West Feliciana,	1
" East Feliciana,	1
" St. Helena and Livingston,	1
" Washington and St. Tammany,	1
" Point Coupée,	1
" Concordia and Tensas,	1
" Carroll and Madison,	1
" Catahoula and Franklin,	1
" St. Mary and	1
" St. Martin,	
" Lafayette and Vermillion,	1
" St. Landry,	1
" Sabine and Calcasieu,	1
" Avoyelles,	1
" Rapides,	1
" Natchitoches,	1
" Caddo and De Soto,	1
" Claiborne and Bossier,	1
" Ouachita and Caldwell,	1
" Union, Morehouse and Jackson,	1
Total	32

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

Mr. Guion submitted the following substitute, viz:

The senate shall consist of thirt-two members, to be elected for four years, by persons qualified to vote for representatives,

and the apportionment of senators shall be as follows, viz:

The parishes of Plaquemines, St. Bernard and Jefferson, together with that portion of the parish of Orleans, on the right bank of the Mississippi river, shall constitute the 1st district, with three senators.

All that portion of the parish of Orleans, lying on the left side of the river, shall constitute the 2d district, with four senators.

The parishes of St. Charles and St. John the Baptist, shall constitute the 3d district, with one senator.

The parishes of St. James and Ascension, shall constitute the 4th district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall constitute the 5th district, with two senators.

The parishes of Iberville, West Baton Rouge and Point Coupée, shall constitute the 6th district, with two senators.

The parishes of West Feliciana and East Feliciana, shall constitute the 7th district, with two senators.

The parish of East Baton Rouge shall constitute the 8th district, with one senator.

The parishes of Washington, St. Tammany, St. Helena and Livingston, shall constitute the 9th district, with two senators.

The parishes of Concordia and Tensas, shall constitute the 10th district, with one senator.

The parishes of Madison and Carroll, shall constitute the 11th district, with one senator.

The parishes of Avoyelles and Rapides, shall constitute the 12th district, with two senators.

The parishes of Catahoula, Caldwell and Franklin, shall constitute the 13th district, with one senator.

The parishes of Ouachita, Union, Morehouse and Jackson, shall constitute the 14th district, with one senator.

The parishes of Natchitoches, Caddo, Sabine, De Soto and Claiborne, shall constitute the 15th district, with three senators.

The parishes of St. Landry and Calcasieu, shall constitute the sixteenth district, with two senators.

The parishes of St. Martin, St. Mary, Lafayette and Vermillion, shall constitute the seventeenth district, with two senators.

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On motion of Mr. Guion, the above substitute was ordered to be printed, and the matter under consideration was postponed until the said substitute be printed.

Mr. Downs moved to reconsider the vote given to postpone the subject under consideration, which was lost.

On motion of Mr. Benjamin, the Convention then took up the report of the committee on the fifth article, concerning impeachment, viz:

Sec. 1. The power of impeachment shall be invested in the house of representatives alone.

Sec. 2. All impeachments shall be tried by the senate and chief justice of the supreme court, unless he is interested, in which case, the senior associate judge of said court shall preside. When sitting for that purpose, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 3. The governor and all the civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend farther than to removal from office, and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be liable and subject to indictment, trial and punishment, according to law.

Mr. Mayo offered the following amendment, viz:

The power of impeachment for all officers except clerks of courts, justices of the peace, sheriffs, coroners, and all other parish officers, shall be vested in the House of Representatives alone.

Mr. Conrad, of New Orleans, submitted the following substitute, and the same was ordered to be printed, viz:

Impeachments of the governor, lieutenant governor or secretary of state, shall be tried by the senate and the chief justice of the supreme court, who, in such cases, shall preside.

Impeachments of the judges of the supreme court shall be tried by the senate.

Impeachments of all inferior judges and clerks of courts shall be tried by the supreme court.

All other impeachments shall be tried by a committee of not less than members of the senate, presided by the presi-

ding judge of the supreme court for the time being.

Mr. Benjamin moved that the Convention adjourn till Monday next, at ten o'clock A. M. The yeas and nays being called for—

Messrs. *Aubert*, *Beatty*, *Boudousquie*, *Briant*, *Cenas*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Eustis*, *Garcia*, *Guion*, *Kenner*, *Legendre*, *Marigny*, *Mazureau*, *Read*, *Roman*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Stephens*, *Wederstrandt*, *Winchester* and *Winder* voted in favor of the adjournment—27 yeas;

Messrs. Brazeale, *Brent*, *Burton*, *Cadé*, *Chambliss*, *Conrad* of Orleans, *Covillion*, *Dunn*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Lewis*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Scott* of Feliciana, *Sellers*, *Taylor* of Assumption, *Voorhies*, *Waddill* and *Wikoff* voted in the negative —27 nays

The vote-being equally divided, the president voted in the affirmative, consequently the motion was carried, and the Convention adjourned until Monday next at ten o'clock a. m.

Note.—Members absent: Mr. Brumfield on leave; Mr. Penn on account of illness in his family; and Messrs. Chinn, Trist and Wadsworth did not appear in their seats.

Monday, March 24, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens opened the proceedings with prayer.

On motion, leave of absence was granted Messrs. Carriere, Wederstrandt, and Porche.

On motion, Messrs. Leonard and Trist were excused for non-attendance, on account of illness.

Mr. Ilsley, one of the reporters in English, having been summoned to appear before the criminal court as a witness, was excused, and Mr. Henderson permitted to act in his stead.

Messrs. Ilsley and Kerr submitted to the secretary the receipts of the printers to the Convention, for the reports of the debates of the Convention of the 18th, 19th and 20th instant.

Mr. Beatty gave notice that he would on Thursday next, move to reconsider the vote given on that part of the sixth section of the legislative department, fixing the basis of apportionment.

Mr. Wadsworth submitted an application from the printers of the English reports of the Convention; the same was referred to the committee on contingent expenses.

ORDER OF THE DAY.

Article 5th of the Constitution, concerning impeachment, being under consideration at the last adjournment, was called up, viz:

Sec. 1. The power of impeachment shall be vested in the house of representatives alone.

Sec. 2. All impeachments shall be tried by the senate and the chief justice of the supreme court, unless he is interested, in which case the senior associate judge of said court shall preside. When sitting for that purpose, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 3. The governor and all the civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under this State, but the parties convicted shall nevertheless be liable and subject to indictment, trial and punishment, according to law.

At the last adjournment, the Convention had under discussion the amendment offered to the first section by Mr. Mayo, viz:

"The power of impeachment for all officers, except clerks of courts, justices of the peace, sheriffs, coroners, and all other parish officers, shall be vested in the house of representatives alone."

Mr. Downs moved that the motion under consideration be postponed, and that the Convention take up the legislative department, dividing the State into senatorial districts. The yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Cenas*, *Chambliss*, *Covillion*, *Downs*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *O'Brian*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott*

of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Voorhies*, *Waddill* and *Wikoff* voted in the affirmative—27 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Garrett*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *McCallop*, *Marigny*, *Mazureau*, *Roman*, *Sellers*, *Soulè*, *Taylor* of Assumption, *Taylor* of St. Landry and *Wadsworth* voted in the negative—26 nays.

The PRESIDENT having been called upon to vote, said, that as the subject was important and the house thin, he would vote in the negative, which making the vote equal, consequently the motion was lost.

On motion of Mr. SOULE, the amendment of Mr. Mayo was laid on the table, subject to call.

Mr. VOORHIES moved to amend the first section, by adding at the end of the same the following words, viz: "Subject to modifications hereinafter made;" which motion was lost.

On motion of Mr. DOWNS, the first section, as reported, was adopted, viz:

"The power of impeachment shall be vested in the house of representatives alone."

Mr. BENJAMIN then offered as a substitute to the first paragraph of the second section, the substitute offered by Mr. Conrad of New Orleans, at the last adjournment, viz:

Impeachments of the governor, lieutenant governor and secretary of State, shall be tried by the senate and the chief justice of the supreme court, who, in such cases, shall preside.

Impeachments of the judges of the supreme court, shall be tried by the senate.

Impeachments of all inferior judges, and clerks of courts, shall be tried by the supreme court.

All other impeachments shall be tried by a committee of not less than members of the senate, presided by the presiding judge of the supreme court for the time being.

Mr. DOWNS moved to amend said substitute by inserting after the word "State," in the second line, the words "attorney general, state treasurer, judges of the criminal court, and judges next in jurisdiction to the supreme court;" which amendment was adopted.

Mr. DOWNS moved to amend said substitute by inserting after the word "court," in the fourth line, the words "or the senior associate judge of said court," which amendment was adopted.

Mr. BEATTY then moved to strike out the remainder of the said substitute, commencing at the ninth line, and insert in lieu thereof the following, viz:

"The legislature shall provide by law for the trial and removal from office of all other officers of this State, by indictment, or otherwise."

Mr. DOWNS moved to amend said amendment by inserting after the word "trial," the word "punishment;" which amendment was accepted by Mr. Beatty.

On motion of Mr. DOWNS, the words "for that purpose," in the first line of the second paragraph, were stricken out, and the words "as a court of impeachment" inserted in lieu thereof.

On motion, the second section was adopted as amended, viz:

SEC. 2. Impeachment of the governor, lieutenant governor, attorney general, secretary of state, state treasurer, judges of the criminal court, and judges next in jurisdiction to the supreme court, shall be tried by the senate and the chief justice of the supreme court, or the senior associate judge of said court, who shall preside in such cases.

Impeachments of the judges of the supreme court shall be tried by the senate.

The legislature shall provide by law for the trial, punishment, and removal from office of all other officers of the State, by indictment, or otherwise.

When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

Mr. DOWNS then moved to amend the third section, by striking out the words, "the governor and all civil officers shall be liable to impeachment for any misdemeanor in office, but," and insert after the word "judgment," the words "in cases of impeachment;" which amendment was adopted.

Mr. CENAS offered the following amendment, viz:

All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency and trial of such impeachment.

Mr. BENJAMIN moved to amend said amendment, by adding the following proviso, viz:

"Provided that the appointing power may make a provisional appointment of an officer to replace the suspended officer until the decision shall be made on the impeachment; which proviso was accepted by Mr. Cenas, and the amendment as amended by the proviso was adopted.

On motion, the said third section as amended was adopted, viz:

SEC. 3. Judgments in cases of impeachment shall not extend further than to removal from office and disqualification to holding any office of honor, trust or profit under this State; but the parties convicted shall nevertheless be liable and subject to indictment, trial and punishment, according to law.

All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions during the pendency and trial of such impeachment: *Provided*, that the appointing power may make a provisional appointment of an officer to replace the suspended officer, until the decision shall be made on the impeachment."

On motion of Mr. DOWNS, the article 5th, as amended, was adopted, viz:

SEC. 1. The power of impeachment shall be vested in the house of representatives alone.

SEC. 2. Impeachment of the governor, lieutenant governor, attorney general, secretary of state, state treasurer, judge of the criminal court, and judges next in jurisdiction to the supreme court, shall be tried by the senate and the chief justice of the supreme court, or the senior associate judge of said court, who shall preside in such cases.

Impeachment of the judges of the supreme court shall be tried by the senate.

The legislature shall provide by law for the trial punishment and removal from office of all other officers of the State, by indictment, or otherwise.

When sitting as a court of impeachment the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 3. Judgments in cases of impeachment shall not extend further than to removal from office and disqualification to holding any office of honor, trust or profit under this State; but the parties convicted shall, nevertheless be liable to indictment, trial and punishment, according to law.

All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions during the pendency and trial of such impeachment; *Provided*, that the appointing power may make a provisional appointment of an officer to replace the suspended officer until the decision shall be made on the impeachment.

On motion of Mr. DOWNS, the Convention then took up the 10th section of the report of the majority on the legislative department, together with the two substitutes offered to the same by Messrs. Downs and Guion, all of which had been postponed to make room for the 5th article, concerning impeachment.

Section tenth of the report of the majority, viz:

The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans, lying on the east side of the Mississippi river, shall comprise the first district.

The parishes of Plaquemines, St. Bernard and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupée and Avoyelles, shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Ten-

sas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, That the legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

Report of the minority, and offered by Mr. Downs, as a substitute for the foregoing tenth section, viz:

The Senate shall consist of thirty-two members, to be elected for four years, by the voters qualified to vote for representatives, and at the same time, one-half every two years; and the apportionment of senators shall be made as follows:

The parishes of Plaquemines, St. Bernard, and that portion of the parish of Orleans on the right bank of the river, shall be one senator—	1
The parish of Orleans—	
First municipality,	2
Second do,	1
Third do,	1
The parish of Jefferson,	1
" St. John the Baptist and St. Charles,	1
" St. James,	1
" Ascension and Assumption,	1
" Lafourche Interior and Terrebonne	2
" Iberville and West Baton Rouge,	1
" East Baton Rouge,	1
" West Feliciana,	1
" East Feliciana,	1
" St. Helena and Livingston,	1
" Washington and St. Tammany,	1
" Pointe Coupée,	1
" Concordia and Tensas,	1
" Carroll and Madison,	1
" Catahoula and Franklin,	1
The Parish of St. Mary and St. Martin,	1
" Lafayette and Vermillion,	1
" St. Landry,	
" Sabine and Calcasieu,	1
" Avoyelles,	1
" Rapides,	1
" Natchitoches,	1
" Caddo and De Soto,	1
" Claiborne and Bossier,	1
" Ouachita and Caldwell,	1
" Union, Morehouse and Jackson,	1
Total,	32

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

Mr. Guion offered the following substitute, to wit:

The senate shall consist of thirty-two members, to be elected for four years, by persons qualified to vote for representatives, and the apportionment of senators shall be as follows, to wit:

The parishes of Plaquemines, St. Bernard and Jefferson, together with that portion of the parish of Orleans on the right bank of the river Mississippi, shall constitute the first district, with three senators.

All that portion of the parish of Orleans lying on the left side of the river, shall constitute the second district, with four senators.

The parishes of St. Charles and St. John the Baptist, shall constitute the third district, with one senator.

The parishes of St. James and Ascension, shall constitute the fourth district with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall constitute the fifth district, with two senators.

The parishes of Iberville, West Baton Rouge and Point Coupée, shall constitute the sixth district, with two senators.

The parishes of West Feliciana and East Feliciana, shall constitute the seventh district, with two senators.

The parish of East Baton Rouge shall constitute the eighth district, with one senato r.

The parishes of Washington, St. Tammany, St. Helena and Livingston, shall constitute the 9th district, with two senators.

The parishes of Concordia and Tensas, shall constitute the 10th district, with one senator.

The parishes of Madison and Carroll, shall constitute the 11th district, with one senator.

The parishes of Avoyelles and Rapides, shall constitute the 12th district, with two s enators.

The Parishes, of Catahoula, Caldwell and Franklin, shall constitute the 13th dis. trict, with one senator.

The Parishes of Ouachita, Union, Morehouse and Jackson, shall constitute the 14th district, with one senator.

The parishes of Natchitoches, Caddo, Sabine, De Soto and Claiborne, shall constitute the 15th district, with three senators.

The parishes of St. Landry and Calcasieu, shall constitute the 16th district, with two senators.

The parishes of St. Martin, St. Mary, Lafayette and Vermillion, shall constitute the 17th district, with two senators.

Mr. BEATTY moved to strike out from the majority report, the word "eight."

Mr. CONRAD of New Orleans, moved that the Convention adjourn till to-morrow, at 10 o'clock, a. m., and the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Briant*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Garcia*, *Kenner*, *Legendre*, *Ledoux*, *Lewis*, *Marigny*, *Mazureau*, *Roman*, *Roselius*, *Taylor* of Assumption, and *Taylor* of St. Landry voted in the affirmative—22 yeas; and

Messrs. *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *King*, *McCallop* *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Voorhies*, *Waddill* and *Wikoff* voted in the negative—34 nays; consequently said motion was lost.

And pending the discussion on the motion of Mr. Beatty, to strike out the word eight, the Convention adjourned till to-morrow, at 10 o'clock, a. m.

NOTE.—Members absent: Messrs. Carriere, Mayo, Porche, Wederstrandt, absent on leave; and Messrs. Leonard, Penn and Trist, absent on account of illness; and Messrs. Chinn, Grymes, Guion, Pugh, Saunders, Winchester and Winder, did not appear in their seats.

TUESDAY, March 25, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. MARSHALL opened the proceedings with prayer.

On motion, Mr. Chinn was excused for non-attendance on account of illness.

On motion, leave of absence was granted to Mr. McRae.

ORDER OF THE DAY.

Section 10th of article 2d of the legislative department, as reported by the majority, viz:

The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

The parishes of Plaquemines, St. Bernard and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupée and Avoyelles, shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

The parishes of Rapides, Natchitoches,

Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, That the legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

Report of the minority, offered by Mr. Downs as a substitute to the foregoing 10th section, viz:

The senate shall consist of thirty-two members, to be elected for four years, by the voters qualified to vote for representatives, and at the same time; one half every two years; and the apportionment of senators shall be as follows:

The parishes of Plaquemines and St. Bernard, and that portion of the parish of Orleans on the right bank of the river, shall have one senator,		1
The Parish of Orleans—		
	First Municipality,	2
	Second "	1
	Third "	1
The Parish of Jefferson,		1
"	St. John the Baptist and St. Charles,	1
"	St. James,	1
"	Ascension and Assumption,	1
"	Lafourche and Terrebonne,	2
"	Iberville and West Baton Rouge,	1
"	East Baton Rouge,	1
"	West Feliciana,	1
"	East Feliciana,	1
"	St. Helena and Livingston,	1
"	Washington and St. Tammany,	1
"	Point Coupée,	1
"	Concordia and Tensas,	1
"	Carroll and Madison,	1
"	Catahoula and Franklin,	1
"	St. Mary and St. Martin,	1
The Parish of Lafayatte and Vermillion,		1
"	St. Landry,	1
"	Sabine and Calcasieu,	1
"	Avoyelles,	1
"	Rapides,	1
"	Natchitoches,	1
"	Caddo and De Soto,	1
"	Claiborne and Bossier,	1
"	Ouachita and Caldwell,	1
"	Union, Morehouse and Jackson,	1
	Total,	32

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district.

Substitute offered by Mr. Guion, viz:

The senate shall consist of thirty-two members, to be elected for four years, by persons qualified to vote for representatives, and the apportionment of senators shall be as follows, to wit:

The parishes of Plaquemines, St. Bernard, and Jefferson, together with that portion of the parish of Orleans on the right bank of the river Mississippi, shall constitute the first district, with three senators.

All that portion of the parish of Orleans lying on the left side of the river, shall constitute the second district, with four senators.

The parishes of St. Charles and St. John the Baptist, shall constitute the third district, with one senator.

The parishes of St. James and Ascension, shall constitute the fourth district, with two senators.

The parishes of Assumption, Lafourche Interior and Terre Bonne, shall constitute the fifth district; with two senators.

The parishes of Iberville, West Baton Rouge and Point Coupée, shall constitute the sixth district, with two senators.

The parishes of West Feliciana and East Feliciana, shall constitute the seventh district, with two senators.

The parish of East Baton Rouge, shall

constitute the eighth district, with one senator.

The parishes of Washington, St. Tammany, St. Helena and Livingston, shall constitute the ninth district, with two senators.

The parishes of Concordia and Tensas, shall constitute the tenth district, with one senator.

The parishes of Madison and Carroll, shall constitute the eleventh district, with one senator.

The parishes of Avoyelles and Rapides, shall constitute the twelfth district, with two senators.

The parishes of Catahoula, Caldwell and Franklin, shall constitute the thirteenth district, with one senator.

The parishes of Ouachita, Union, More house and Jackson, shall constitute the fourteenth district, with one senator.

The parishes of Natchitoches, Caddo, Sabine, De Soto and Claiborne, shall constitute the fifteenth district, with three senators.

The parishes of St. Landry and Calcasieu, shall constitute the sixteenth district, with two senators.

The parishes of St. Martin, St. Mary, Lafayette and Vermillion, shall constitute the seventeenth district, with two Senators.

The motion of Mr. BEATTY to strike out from the majority report the word "*eight*" being under consideration, the yeas and nays being called for

Messrs. Aubert, Beatty, Boudousquie, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Garcia, Garrett, Guion, Hudspeth, Humble, Hynson, King, Labauve, Ledeax, Lewis, McCallop, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff and Winder voted in the affirmative.—54 yeas, and

Messrs. Benjamin, Briant, Kenner, Marigny, Roman, Taylor of Assumption and Winchester voted in the negative.—7 nays, consequently said motion was caried.

Mr. BRENT then moved to fill the blank with the words "*thirty-two*," and the yeas and nays being called for

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Labauve, Ledeaux, Legendre, McCallop, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Voorhies, Waddill and Wederstrant voted in the affirmative—31 yeas, and

Messrs. Aubert, Beatty, Benjamin, Boudousque, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Lewis, Marigny, Mazureau, Prescott of St. Landry, Pugh, Roman, Saunders, Taylor of Assumption, Taylor of St. Laydry, Wadsworth, Wikoff, Winchester and Winder voted in the negative—32 nays, consequently the motion was lost.

Mr. KENNER moved to lay on the table subject to call, the clause fixing the number of senatorial districts, and that the Convention proceed in the apportionment; the yeas and nays being called for

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Winchester and Winder voted in the affirmative—31 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Covillion, Downs, Humble, Hynson, Ledoux, McCallop, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff voted in the negative—31 nays; the vote being equally divided the President voted in the negative, consequently the motion was lost.

Mr. O'BRYAN then moved to fill the blank with the word "thirty," and the yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Covillion, Downs,

Garrett, Humble, Hynson, Labauve, Ledoux, McCallop, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Voorhies, Waddill and Wederstrandt voted in the affirmative—30 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Bourg, Briant, Cenas, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Legendre, Lewis, Marigny, Mazureau, Prescott* of St. Landry, *Pugh, Roman, Saunders, Taylor* of Assumption, *Taylor* of St. Landry, *Wikoff, Winchester* and *Winder* voted in the negative—32 nays; consequently, the motion was lost.

Mr. Guion then moved to fill the blank with the word "seventeen." The yeas and nays being called for,

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Briant, Cenas, Claiborne, Conrad* of Orleans, *Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Lewis, Marigny, Mazureau, Pugh, Roman, Saunders, Taylor* of Assumption, *Taylor* of St. Landry, *Winchester* and *Winder* voted in favor of said motion—28 ayes; and

Messrs. *Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Conrad* of Jefferson, *Covillion, Downs, Garrett, Humble, Hynson, Ledoux, Legendre, O'Bryan, Peets, Porter, McCallop, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Voorhies, Waddill, Wederstrandt* and *Wikoff* voted in the negative—35 nays; consequently the motion was lost.

Mr. Kenner moved to adjourn till tomorrow at ten o'clock a. m. The yeas and nays being called for, yeas 31—nays 31.

Messrs. *Aubert, Beatty, Benjamin, Boudousquie, Boug, Briant, Cénas, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Hudspeth, Kenner, Labauve, Legendre, Marigny, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers, Stephens, Taylor* of Assumption, *Winchester* and *Winder* voted in the affirmative—31 ayes; and

Messrs. *Brazeale, Brent, Bromfield, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, King, Ledoux, McCallop, O'Bryan, Peets, Porter, Prescott*, of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott of* Madison, *Splane, Taylor* of St. Landry, *Waddill, Wederstrandt* and *Wikoff* voted in the negative—31 nays. The vote being equal, the President voted in the negative; consequently, the motion was lost.

On motion of Mr. Kenner, the clause in the majority report fixing the number of senatorial districts, was laid on the table, subject to call.

Mr. Brent than moved to take up the substitute offered by Mr. Downs, which motion was lost.

The President being asked what project was before the house, answered, that the majority report was the one upon which the Convention had been acting.

On motion, the Convention adjourned till to-morrow at 10 o'clock, a. m.

Note.—Members absent: Messrs. Chinn, Leonard, Penn and Trist, absent on account of illness; Messrs. Carriere, Mayo, McRae and Porche absent on leave, Messrs. Grymes and Soulè did not appear in their seats.

Wednesday, March 26, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

Mr. Ilsley, one of the reporters in English, furnished the secretary with the receipt of the printers to the Convention for the report of the debates to the 24th instant.

Mr. Ratliff chairman of the committee on contingent expenses, offered the following resolution, which was adopted, viz:

"*Resolved*, That the committee on contingent expenses be instructed to pay James Carpenter, sergeant-at-arms, the sum of twenty-seven dollars and fourteen cents, in remuneration for moneys paid out by him for the use of the Convention."

ORDER OF THE DAY.

Section 10th of article 5th, as reported by the majority.

"The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by per-

sons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

The parishes of Plaquemines, St. Bernard, and the remainder of the parish of Orleans, parishes of Jefferson, St. Charles and St. John the Baptist, shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne shall compose the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupee and Avoyelles shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston shall compose the fifth district.

The parishes of Concordia, Carroll, Madison, Ouachita, Franklin, Union, Tensas, Morehouse, Catahoula and Caldwell shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion shall compose the eighth district.

Provided, That the legislature shall have the power in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators."

Report of the minority offered by Mr. Downs as a substitute to the foregoing 10th section, viz :

"The senate shall consist of thirty-two members, to be elected for four years by the voters qualified to vote for representatives, and at the same time, one-half every two years, and the apportionment of senators shall be as follows :

The parishes of Plaquemines, St. Bernard, and that portion of the parish of Orleans on the right bank of the river shall have one senator.	1
The Parish of Orleans—	
First Municipality,	2
Second "	1
Third "	1
The Parish of Jefferson,	1
The Parish of St. John the Baptist and St. Charles,	1
" St. James,	1
" Ascension and Assumption,	1
" Lafourche and Terrebonne,	2
" Iberville and West Baton Rouge,	1
" East Baton Rouge,	1
" West Feliciana,	1
" East Feliciana,	1
" St. Helena and Livingston,	1
" Washington and St. Tammany,	1
" Point Coupée,	1
" Concordia and Tensas,	1
" Carroll and Madison,	1
" Catahoula and Franklin,	1
" St. Mary and St. Martin,	1
" Lafayatte and Vermillion,	1
" St. Landry,	1
" Sabine and Calcasieu,	1
" Avoyelles,	1
" Rapides,	1
" Natchitoches,	1
" Caddo and De Soto,	1
" Claiborne and Bossier,	1
" Ouachita and Caldwell,	1
" Union, Morehouse and Jackson,	1
Total,	32

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district."

Mr. GUION offered the following substitute, viz :

The senate shall consist of thirty-two members, to be elected for four years, by persons qualified to vote for representatives, and the apportionment of the senators shall be as follows, viz :

The parishes of Plaquemines, St. Bernard and Jefferson, together with that portion of the parish of Orleans on the right bank of the river Mississippi, shall constitute the first district, with three senators.

All that portion of the parish of Orleans lying on the left side of the river shall constitute the second district, with four senators.

The parishes of St. Charles and St. John the Baptist shall constitute the third district, with one senator.

The parishes of St. James and Ascension shall constitute the fourth district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall constitute the fifth district, with two senators:

The parishes of Iberville, West Baton Rouge and Point Coupée shall constitute the sixth district, with two senators.

The parishes of West Feliciana and East Feliciana shall constitute the seventh district, with two senators.

The parish of East Baton Rouge shall constitute the eighth district, with one senator.

The parishes of Washington, St. Tammany, St. Helena and Livingston shall constitute the ninth district, with two senators.

The parishes of Concordia and Tensas, shall constitute the tenth district, with one senator.

The parishes of Madison and Carroll, shall constitute the eleventh district, with one senator.

The parishes of Avoyelles and Rapides, shall constitute the twelfth district, with two senators.

The parishes of Catahoula, Caldwell and Franklin, shall constitute the thirteenth district, with one senator.

The parishes of Ouachita, Union, Morehouse and Jackson, shall constitute the fourteenth district, with one senator.

The parishes of Natchitoches, Caddo, Sabine, De Soto and Claiborne, shall constitute the fifteenth district, with three senators.

The parishes of St. Landry and Calcasieu, shall constitute the sixteenth district, with two senators.

The parishes of St. Martin, St. Mary, Lafayette and Vermillion, shall constitute the seventeenth district, with two senators.

On motion, the Convention took up the first district of the majority report, viz:

"All that portion of the parish of Orleans lying on the east side of the Mississippi, shall compose the first district."

Mr. Downs offered the following substitute, viz:

"The parish of Orleans shall have—for the first municipality, two senators; for the second municipality, one senator; for the third municipality, one senator."

Mr. Conrad of Orleans, moved to lay on the table, subject to call, the order of the day, in order to make way for the following resolution, viz:

"Whereas, representation in the lower house of the general assembly has been based solely on members—

"*Resolved*, That in apportioning repesentation in the senate, property or taxation should be taken into the estimate."

The yeas and nays being called for,

Messrs. *Aubert*, *Boudousquié*, *Briant*, *Cénas*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Guion*, *Kenner*, *King*, *Labauve*, *Legendre*, *Mazureau*, *Pugh*, *Roman*, *Saunders*, *Taylor* of St. Landry, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—23 yeas; and

Messrs. *Beatty*, *Benjamin*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, and *Wederstrandt* voted in the negative—36 nays; consequently the motion was lost.

Mr. Taylor of Assumption, moved to lay on the table subject, to call, the first district of the majority report, together with the substitute offered by Mr. Downs, in consequence of the absence of four of the city delegates.

The yeas and nays being called for, resulted as follows:

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Cènas*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*,

Pugh, *Roman*, *Saunders*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—31 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Culbertson*, *Downs*, *Humble*, *Hynson*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Splane*, *Stephens*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the negative—29 nays; consequently the motion was carried.

On motion, the second district of the majority report was taken up, viz:

"The parishes of Plaquemines, St. Bernard, and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist, shall compose the second district."

Mr. Downs offered the following amendment, to wit:

The parish of Plaquemines and St. Bernard, and that portion of the parish of Orleans on the right bank of the river, shall have one senator.

Mr. Wadsworth moved to amend the amendment of Mr. Downs, by inserting "two" instead of "one" senator. The yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Briant*, *Cênas*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Garcia*, *Hudspeth*, *King*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth*, *Wikoff* and *Winchester*, voted in the affirmative—26yeas; and

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Conrad* of New Orleans, *Covillion*, *Downs*, *Dunn*, *Guion*, *Humble*, *Hynson*, *Kenner*, *McCallop*, *McRae*, *O'Bryan*, *Penn*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the negative—33 nays; the motion was lost.

On motion the amendment of Mr. Downs was adopted, viz:

"The parishes of Placquemines and St. Bernard, and that portion of the parish of Orleans on the right bank of the river Mississippi, shall have one senator."

Mr. Beatty moved to strike out from said district that part of the parish of Orleans on the right bank; which motion was lost.

Mr. Benjamin then moved that the parishes of Jefferson, St. Charles and St. John the Baptist, be entitled to three senators.

Mr. Brent moved to amend Mr. Benjamin's motion, by giving to the parish of Jefferson one senator.

Mr. Benjamin then moved for a division, that the Convention first proceed to divide the parish of Jefferson from the parishes of St. Charles and St. John the Baptist. The yeas and nays being called for,

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garcia*, *Garrett*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Marigny*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the affirmative—34 yeas; and

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Briant*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *Saunders*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth*, *Wikoff*, and *Winchester* voted in the negative—27 nays; consequently said motion was carried.

Mr. Conrad of Jefferson, moved to amend the amendment of Mr. Brent, by inserting "two" instead of "one" senator. The yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Briant*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Guion*, *Kenner*, *Labauve*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *Roselius*, *Sanders*, *Soulé*, *Taylor* of Assumption, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—25 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cadé Chambliss*, *Covillion*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *McRea*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of

Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Taylor* of St. Landry, *Voorhies, Waddill, Wederstrandt*, and *Wikoff* voted in the negative—36 nays; consequently the motion was lost.

The motion of Mr. Brent, giving the parish of Jefferson one senator, was then adopted.

On motion, the apportionment of the parishes of St. Charles and St. John the Baptist was fixed at one Senator.

On motion, the Convention took up the third district of the majority report, viz:

The parishes of St. James, Ascension, Assumption, Lafourche Interior, and Terrebonne, shall compose the third district.

Mr. KENNER moved for a division, that is, that the parish of St. James and Ascension shall compose one district; which motion prevailed.

Mr. KENNER then moved to allot said district two senators.

And, pending the discussion of said motion the Convention adjourned till to-morrow at ten o'clock, a. m.

Note—Members absent, Messrs. Carriere, Mayo, and Porche, absent on leave; Messrs. Leonard and Trist, absent on account of illness; and Messrs. Chinn, Grymes and St. Amand did not appear in their seats.

THURSDAY, March 27, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, at the request of the president, the Hon. Mr. STEPHENS opened the proceedings with prayer.

Mr. Robert Kerr, one of the reporters in English, furnished the secretary with the receipt of the printers to the Convention, for the report of the debates in English of the 25th ult.

ORDER OF THE DAY.

SEC. 10. The State shall be divided into ——senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

The parishes of Plaquemines, St. Bernard and that portion of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension, shall compose one district, with —— senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall compose —— district, wiih —— senator.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Point Coupée and Avoyelles, shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carrol, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula and Caldwell, shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, That the legislature shall have the power, in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

The question under consideration at the adjournment, was the motion of Mr. Kenner to allow to the senatorial district, composed of the parishes of St. James and Ascension, two senators.

Mr. BRENT moved that the order of the day, that is, the motion offered by Mr. Kenner giving two senators to the county of Acadia, be laid on the table subject to sall; and the yeas and nays being called for,

Messrs. *Beatty, Brazeale, Brent, Cade, Chambliss, Covillion, Downs, Humble, Hynson, Lewis, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Voor-*

hies, Waddill, Wederstrandt and *Winder* voted in the affirmative—29 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Culberson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, Saunders, Sellers, Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth, Wikoff* and *Winchester* voted in the negative—36 nays; consequently the motion was lost.

Mr. KENNER then called for the yeas and nays on the motion giving two senators to the parishes of St. James and Ascension, which resulted as follows:

Messrs. *Aubert, Benjamin, Boudousquié, Bourg, Briant, Burton Cade, Chinn, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Prescott* of St. Landry, *Prudhomme, Pugh, Ratliff, Roman, Saunders, Sellers, Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies, Wadsworth* and *Winchester* voted in the affirmative—39 yeas; and

Messrs. *Beatty, Brazeale, Brent, Brumfield, Chambliss, Covillion, Downs, Humble, Hynson, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott* of Avoyelles, *Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Waddill, Wederstrandt* and *Winder* voted in the negative—25 nays; consequently said motion was carried.

On motion, the senatorial district composed of the parishes of St. James and Ascension, with two senators, was adopted.

Mr. RATLIFF gave notice that he would, on a future day, move to reconsider the vote making one senatorial district of the parishes of St. James and Ascension.

Mr. TAYLOR of Assumption, moved that the parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

Mr. DOWNS moved for a division, that is, the Convention first proceed to establish the district; and the yeas and nays being called for,

Messrs. *Aubert, Benjamin, Boudousquie,* Messrs. *Beatty, Brazeale, Brent, Cham- Bourg, Briant, Burton, Brumfield, Chinn, Cade, Claiborne, Conrad* of Orleans, *Con rad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Prescott* of St. Landry, *Pugh, Roman, Saunders, Sellers, Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies, Wadsworth, Winchester* and *Winder* voted in the affirmative—38 yeas; and,

bliss, Covillion, Downs, Humble, Hynson, Ledoux, McCallop, McRae, O'Bryan, Peets, Porter, Prescott of Avoyelles, *Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Waddill* and *Wederstrandt* voted in the negative—25 nays; consequently the motion was carried.

On motion, the district composed of the parishes of Assumption, Lafourche Interio and Terrebonne with two senators, was adopted.

The Convention then took up the fourth district of the majority report, viz:

"The parishes of Iberville, West Bator Rouge, East Baton Rouge, Point Coupée and Avoyelles shall compose the fourth district."

Mr. CHINN moved to amend, as follows viz: "The parishes of Iberville and Wes Baton Rouge shall compose one district;" which amendment was adopted.

Mr. CHINN then moved that two senator be allotted to the said district formed o the parishes of Iberville and West Bato Rouge; the yeas and nays being called for

Messrs. *Benjamin, Boudousquié, Briant Chinn, Claiborne, Conrad* of New Orleans *Conrad* of Jefferson, *Culbertson, Derbes Dunn, Kenner, Labauve, Ledoux, Legendre McCallop, Marigny, Mazureau, Pugh Roman, Saunders, Scott* of Baton Rouge, *Waddill* and *Winchester* voted in the affirmative—23 yeas; and

Messrs. *Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Covillion, Downs, Garrett, Guion, Hudspeth, Humble, Hynson, King, Lewis, McRae, O'Bryan, Peets, Penn Porter, Prescott* of Avoyelles, *Prescott* o St. Landry, *Prudhomme, Ratliff, Read, Scot* of Feliciana, *Sellers, Stephens, Splane Taylor* of Assumption, *Taylor* of St. Landry *Voorhies, Wederstrandt* and *Winder* voted in the negative—38 nays; consequently the motion was lost.

On motion, the district composed of the parishes of Iberville and West Baton Rouge, with one senator, was adopted.

Mr. READ moved that the parish of East Baton Rouge shall compose one district, with one senator; which motion prevailed.

Mr. LEDOUX moved that the parish of Point Coupée shall compose one district, with one senator; which motion was adopted.

Mr. COVILLION moved that the parish of Avoyelles shall compose one district, with one senator; the yeas and nays being called for,

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Covillion*, *Culbertson*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Ledoux*, *Lewis*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder* voted in the affirmative——41 yeas; and

Messrs. *Aubert*, *Boudousquié*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Guion*, *Kenner*, *Labauve*, *Legendre*, *Maizureau*, *Pugh*, *Roman*, *Saunders*, *Wadsworth* and *Winchester* voted in the negative——19 nays; consequently the motion was carried, and the district composed of the parish of Avoyelles with one senator, was adopted.

On motion, the Convention adjourned till to-morrow, at 10 o'clock, a. m.

NOTE.—Members absent: Messrs. Carrere, Mayo and Porche absent on leave; Messrs. Leonard and Trist absent on account of illness; and Messrs. Grymes, Preston, Roselius, St. Amand and Soulé did not appear in their seats.

FRIDAY, March 28, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings with prayer.

Mr. ILSLEY, one of the reporters in English, furnished the secretary with the receipt of the printers to the Convention for the report of the debates in English, of the 26th inst.

ORDER OF THE DAY.

SEC. 10. The State shall be divided into —— senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall comprise the first district.

The parishes of Plaquemines, St. Bernard, and that portion of the parish of Orleans on the right bank of the river shall composse one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The phrishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior, and Terrebonne, shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Pointe Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston, shall compose the fifth district.

The parishes of Concordia, Carrol, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula, and Caldwell shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, that the legislature shall have the power in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

On motion of Mr. LEWIS, the Convention took up the eighth district of the majority report, viz:

The parishes of St. Mary, St. Martin,

St. Landry, Lafayette and Vermillion shall compose the eighth district.

Mr. Taylor of Assumption moved to amend the same by making a district of the parishes of St. Mary and St. Martin.

Mr. SPLANE moved for a division, that is that each parish shall constitute a separate district, and the yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Burton, Chambliss, Covillion, Downs, Humble, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Waddill, Wederstrandt, and Wikoff voted in the affirmative—25 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Cade, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Prescott of St. Landry, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Winchester and Winder voted in the negative—36 nays; consequently the motion was lost.

On motion the amendment of Mr. Taylor of Assumption, forming one district with the parishes of St. Mary and St. Martin, was adopted.

Then Mr. Taylor of Assumption moved that two senators be allotted to the district composed of the parishes of St. Mary and St. Martin; the yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Briant, Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Roman, Scott of Baton Rouge, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff, Winchester and Winder voted in the affirmative—49 yeas; and

Messrs. Burton, Hynson, McRae, Penn, Porter, Ratliff, Read, Scott of Feliciana, Waddill and Wederstrandt voted in the negative—10 nays; consequently the motion was carried.

On motion of Mr. TAYLOR of Assumption, the district composed of the parishes of St. Mary and St. Martin, with two senators, was adopted.

Mr. O'BRYAN moved that the parishes of Lafayette and Vermillion shall compose one district, with one senator, which motion prevailed.

Mr. LEWIS moved that the parishes of St. Landry and Calcasieu shall form one district, with two senators; the yeas and nays being called for,

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Burton, Brumfield, Briant, Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—57 yeas; and

Mr. Abel Waddill voted in the negative—1 nay; consequently the motion was carried, and the district composed of the parishes of St. Landry and Calcasieu, with two senators, was adopted.

On motion of Mr. RATLIFF, the Convention took up the fifth district of the majority report, viz:

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena, and Livingston, shall compose the fifth district.

Mr. WEDERSTRANDT moved that the parish of West Feliciana, shall compose one district, with one senator, the yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Waddill, Weder-

strandt and Wikoff--voted in the affirmative; 34 yeas.

Messrs. Aubert, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Guion, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Winchester and Winder—26 nays; consequently said motion was carried, and the parish of West Feliciana constitutes one senatorial district, and is entitled to one Senator.

On motion of Mr. Scott of Feliciana, the parish of East Feliciana was constituted in one district, with one senator.

Mr. McRae moved that the Parishes of St. Helena and Livingston shall form one district.

Mr. Labauve moved to amend the motion of Mr. McRae, by adding to said district the parishes of Washington and St. Tammany; the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Eustis*, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Roman*, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—30 yeas; and

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*. *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Waddill*, and *Wederstrandt* voted in the negative—32 nays; consequently the motion was lost.

Mr. Penn then moved that the parishes of St. Helena and Livingston shall form one district, with one senator, the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Waddill*, and *Wederstrandt* voted in the affirmative—33 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Eustis*, *Garcia*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Roman*, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth*, *Winchester* and *Winder* voted in the negative—28 nays; consequently the motion was carried, and the district composed of the parishes of St. Helena and Livingston, with one senator was adopted.

Mr. Penn moved that the parishes of Washington and St. Tammany shall compose one district, with one senator, and the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Lewis*, *McCallop*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prestsn*, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Taylor* of St. Landry, *Waddill* and *Wederstrandt* voted in the affirmative—37 yeas; and,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Derbes*, *Garcia*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Mazureau*, *Pugh*, *Roman*, *Sellers*, *Taylor* of Assumption, *Winchester* and *Winder* voted in the negative--23 nays; the motion was carried, and the district composed of the parishes of Washington and St. Tammany, with one senator, was adopted.

On motion of Mr. Sellers, the parishes of Tensas and Concordia shall compose one district, with one senator, was adopted.

Mr. Sellers moved that the parishes of Carroll and Madison shall form one district, with one senator; which motion prevailed.

Mr. Garrett moved that the parishes of Morehead, Union and Jackson, shall compose one district, with one senator.

On a motion that the Convention adjourn till to-morrow at 10 o'clock a. m., the yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Briant*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Or-

leans, *Conrad* of Jefferson, *Derbes*, *Garcia*, *Kenner*, *King*, *Labauve*, *Lewis*, *McCallop*, *Mazureau*, *Saunders*, *Taylor* of Assumption, *Taylor* of St. Landry, *Winchester* and *Winder* voted in favor of the adjournment—22 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Eustis*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Ledoux*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roman*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Waddill* and *Wederstrandt* voted against the adjournment—37 nays; the motion was lost.

Mr. Benjamin moved to amend the motion of Mr. Garrett by adding the parish of Ouachita to said district.

Mr. Aubert moved that the Convention adjourn till to-morrow at 10 o'clock, a. m., the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Bourg*, *Briant*, *Cénes*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *McCallop*, *Mazureau*, *Pugh*, *Roman*, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Winchester* and *Winder* voted in the affirmative—29 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *McRae*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Waddill* and *Wederstrandt* voted in the negative—29 nays; the vote being equally divided, the President voted in the negative, consequently the motion was lost.

After some discussion on the motion of Mr. Benjamin, Mr. Kenner moved that the Convention adjourn till to-morrow, at 10 o'clock, a. m.; the yeas and nays being called for,

Messrs. Aubert, Bourg, Briant, Brumfield, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Garcia, Hudspeth, Kenner, King, Labauve, Lewis, McCallop, Pugh, Roman, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Winchester and Winder voted in the affirmative—23 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Waddill, and Wederstrandt voted in the negative—28 nays; consequently the motion was lost.

Mr. McRae then moved a call of the house, and the following delegates answered to their names, viz:

Messrs. Walker, *President;* Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Claiborne, Conrad of Orleans, Covillion, Derbes, Downs, Garcia, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Ledoux, Lewis, McCallop, McRae, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Roman, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Waddill and Wederstrandt—45.

On motion the Convention adjourned till to-morrow, at 10 o'clock, a. m.

Note—Members absent, Messrs. *Carriere*, *Mayo* and *Porche*, absent on leave; Messrs. *Leonard* and *Trist*, absent on account of illness; and Messrs. *Grymes*, *Roselius*, *St. Amand* and *Soulé*, did not appear in their seats.

Saturday, March 29, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Watkins opened the proceedings with prayer.

The President submitted a letter of invitation from major Gally, of the Orleans Battalion, to attend a target shooting, which invitation was accepted.

Mr. Ratliff, chairman of the committee on contingent expenses, to whom was referred the application of the printers of the reports of the English debates of the Convention, submitted the following report, viz:

The committee on contingent expenses, to whom was referred the application of the printers of the English reports of the Convention, for an increased compensa

tion to be allowed them for their services, have the honor to report, that by a resolution of the Convention, adopted on the 27th day of January, the printers of the English reports of the journal and debates of the Convention, as well as the printers of the French, were to receive each five hundred dollars during the session of the Convention, for ten copies of their paper, containing the entire proceedings of the Convention, to be furnished each member three times a week, or oftener if necessary, to keep up with the proceedings of the Convention; and by a former resolution, adopted the 10th of August last, they were to have two dollars per page for the printing, binding and delivering in book form one thousand copies of the journals and debates of the Convention in English, and the same for a like number of copies in French. Nothing was said in either of those resolutions about extra printing ordered by the Convention. In view of the above resolutions, the committee have felt themselves fully authorized to credit the accounts of the printers for any extra printing they were required to do for the Convention, and to allow them a fair compensation for the work so done. The present application of the printers of the English reports for the Convention, is mainly, it is believed, to obtain an extra compensation for furnishing the number of copies of the paper to the members, required under the resolution above referred to. Their application is in these words: They say they are allowed five hundred dollars for furnishing each member of the Convention, with ten copies of the paper each day; the papers to contain the proceedings of the Convention, during the sitting of that body; a compensation less than twenty dollars per day for seven hundred and seventy copies of the paper. This would involve them in an absolute loss at the rate of ten dollars for three hundred and twelve papers; this number would be worth twenty-six dollars and seventy-five cents; thus, should the Convention sit three months, they would receive one thousand eight hundred dollars worth of papers, and according to the present arrangement, we should be mulcted in a loss of one thousand three hundred dollars on this item alone of the contract. The committee have thought proper to state the substance of their application, in order to possess the house fully of the value of their application; the committee would suggest, that the election of the present printers took place on the same day the resolution above referred to was adopted, and almost immediately after its adoption. The question of the removal of the former printer, had occupied the attention of the Convention for several days previous to his removal; soon after the election of the present printers, the committee paid them the five hundred dollars, allowed them by said resolution, in compensation for the subscription of the Convention to their paper, and since then the printers of the English journals and debates have received for extra printing, a further sum of five hundred dollars. It is proper to say, that, according to their account for extra printing, now in the hands of the committee, they have done extra printing to more than sufficient to cover that sum, and which the committee will report upon as soon as they can avail themselves of the necessary information in relation to the value of the work.

The committee feel fully assured, that the printers of the Convention became candidates for the office of printers with a full knowledge of the compensation to be allowed them, both for their paper, and their journal and debates, to be printed in book form; and nothing was left in doubt or uncertainty, in entering into the contract, but the extra printing; which the committee will, unless otherwise instructed, always pay for at a fair compensation as fast as the work is done. The committee feel satisfied, that the Convention has paid to the printers of the English department, as much money as has been authorized under the contract; and they are of opinion, that no further compensation aside from the contract, be allowed them.

Mr. SPLANE moved to lay the above report on the table, subject to call, which motion was lost.

Mr. DOWNS offered the following resolution, viz:

Resolved, That the report made by the committee on contingent expenses, be referred back to the same committee, with instructions to inquire what amount of compensation ought with justice to be given to the printers of the reports of the debates of the Convention, for furnishing

to each member of the Convention ten copies of the newspaper, containing the reports.

Mr. Downs moved for the adoption of this resolution; the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Claiborne*, *Covillion*, *Culbertson*, *Downs*, *Garrett*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Waddill*, *Wederstrandt*, *Wikoff* and *Winder* voted in the affirmative—36 yeas; and,

Messrs. *Aubert*, *Beatty*, *Bourg*, *Chinn*, *Conrad* of Orleans, *Conrad* of Jefferson, *Derbes*, *Hudspeth*, *King*, *Legendre*, *Mazureau*, *Prudhomme*, *Pugh Ratliff*, *Roman*, *Saunders*, *Sellers*, and *Winchester* voted in the negative—18 nays; consequently the resolution was adopted.

Mr. Splane gave notice that he would on Wednesday next, move to reconsider the vote making one senatortal district of the parishes of St. Mary and St. Martin.

Mr. Chinn gave notice that he would on Wednesday next, move to reconsider the vote allotting to the senatorial district formed of the parishes of Iberville and West Baton Rouge, one senator.

Mr. Pugh gave notice that he would on a future day, introduce a section to the effect, that each parish shall pay the expenses of its representation in the general assembly.

ORDER OF THE DAY.

Sec. 10. The State shall be divided into —— senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

The parish of Plaquemines, St. Bernard and that portion of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension, shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall compose one district, with two senators.

The parishes of Iberville, and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district with one senator.

The parishes of St. Helena and Livingston, shall compose one district, with one senator.

The parishes of Washington and St. Tammany, shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Ouachita, Union, Franklin, Morehouse, Catahoula and Caldwell shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Claiborne, Sabine, Bossier and De Soto shall compose the seventh district.

Provided, That the legislature shall have the power in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

The question under consideration at the adjournment, was the motion of Mr. Ben-

jamin to amend the motion of Mr. Garrett, by adding the parish of Ouachita to the senatorial district composed of the parishes of Morehouse, Union and Jackson. The yeas and nays being called for,

Messrs. *Aubert, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Garcia, Hudspeth, King, Legendre, Pugh, Roman, Roselius, Saunders, Sellers, Taylor* of St. Landry, *Wadsworth* and *Winder* voted in the affirmative—18 yeas; and

Messrs. *Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt* and *Wikoff* voted in the negative—41 nays; consequently the motion was lost.

Mr. Garrett then moved for the adoption of the senatorial district composed of the parishes of Morehouse, Union and Jackson, with one senator. The yeas and nays being called for,

Messrs. *Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Downs, Eustis, Garrett, Humble, Hynson, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott* of Avoyelles, *Prescott* St. Landry, *Prudhomme, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt* and *Wikoff* voted in the affirmative—yeas 38; and

Messrs. *Aubert, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Derbes, Garcia, Hudspeth, King, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers*, and *Taylor* of St. Landry voted in the negative—18 ayes; consequently the motion was carried, and the district composed of the parishes of Morehouse, Union and Jackson, with one senator was adopted.

On motion of Mr. Mayo, the district composed of the parishes of Franklin and Catahoula, with one senator, was adopted.

On motion of Mr. Brent, the district composed of the parish of Rapides, with one senator, was adopted.

On motion of Mr. Peets, the district composed of the parishes of Bossier and Claiborne, with one senator, was adopted.

On motion of Mr. Brazeale, the district composed of the parishes of Natchitoches and Sabine, with two senators, was adopted.

On motion of Mr. Porter, the district composed of the parishes of Caddo and De Soto, with one senator, was adopted.

Mr. Downs moved for the adoption of the district composed of the parishes of Ouachita and Caldwell, with one senator; the yeas and nays being called for, resulted as follows:

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Eustis, Garrett, Humble, Hynson, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—39 yeas; and

Messrs. Auburt, Chinn, Claiborne, Conrad of Jefferson, Derbes, Dunn, Garcia, Hudspeth, King, Lewis, Mazureau, Roman, Roselius, Saunders, Sellers, and Taylor of St. Landry voted in the negative—16 nays; consequently said motion was carried, and the senatorial district composed of the parishes of Ouachita and Caldwell, with one senator, was adopted.

On motion of Mr. Marigny, the Convention took up the first district of the majority report, which had been laid on the table, subject to call, viz:

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall comprise the first district.

On motion of Mr. Soule four senators were allotted to said district.

Mr. Lewis moved that the Convention adjourn till Monday next, at 10 o'clock a. m.; the yeas and nays being called for,

Messrs. Aubert, Briant, Brumfield, Cénas, Chinn, Culbertson, Derbes, Garcia, Garrett, Hudspeth, Lewis, Marigny, Mazureau, Pugh, Ratliff, Roman, Roselius, Saunders, and Taylor of St. Landry, voted in the affirmative—and

Messrs. Brazeale, Brent, Burton, Cade, Chambliss, Covillion, Downs, Dunn, Eustis, Humble, Hynson, Ledoux, McCallop,

McRae, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff voted in the negative—35 nays; consequently the motion was lost.

Mr. Culbertson the moved that the said first district be divided into three senatorial districts, and the four senators be allotted to them as follows, viz:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The yeas and nays being called for on the adoption of the motion of Mr. Culbertson,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Covillion, Culbertson, Downs, Garcia, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff voted in the affirmative—37 yeas; and

Messrs. Cénas, Derbes, Dunn, Eustis, Hudspeth, Lewis, Mazureau, Roman, Roselius and Taylor of St. Landry voted in the negative—10 nays; consequently the motion was carried, and the said districts adopted, as follows, viz:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

Mr. Mazureau gave notice that he will on Wednesday next, at 12 o'clock, m., move to reconsider the vote dividing the city of New Orleans into three senatorial districts.

On motion, the Convention adjourned till Monday next, at 10 o'clock, a. m.

Note—Members absent, Messrs. Carriere and Porche, absent on leave; Messrs. Leonard and Trist, absent on account of illness; and Messrs. Boudousquie, Grymes, Kenner, Labauve, St. Amand, and Taylor of Assumption, did not appear in their seats.

Monday, March 31, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Warren opened the proceedings with prayer.

Mr. Ilsley, one of the reporters in English furnished the secretary with the receipt of the printers for the report of the debates of the 28th instant; and further, the secretary reports that the receipt for the report of the debates of the 27th instant have not yet been furnished him.

On motion, leave of absence was granted Messrs. Scott of Baton Rouge, Hyson and Briant.

On motion Mr. Guion was excused for non-attendance, on account of illness.

On motion, leave of absence was granted Mr. A. Duplantion, on his furnishing the secretary with a substitute to act in his stead during his absence.

Mr. Kenner offered the following resolution, and the same was adopted, viz:

Resolved, That the committee on contingent expenses be instructed to report to the Convention what amount of money has been paid to the different printers, for all printing done up to date, and to whom paid.

ORDER OF THE DAY.

Sec. 10. The State shall be divided into —— senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows, viz:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall be divided as follows, viz:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Pointe Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermilion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston, shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Morehouse, Union and Jackson shall compose one district, with one senator.

The parishes of Ouachita and Caldwell shall compose one district, with one senator.

The parishes of Franklin and Catahoula shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parishes of Natchitoches and Sabine shall compose one district with two senators.

The parishes of Caddo and De Soto shall compose one district, with one senator.

Provided, that the legislature shall have the power, in any year, in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

Mr. Downs moved to amend the proviso, by striking out the words, "each to be entitled to elect two senators," and to insert in lieu thereof the words, "having more than one senator."

Mr. Taylor of Assumption offered the following as a substitute for the proviso and amendment, viz:

"The legislature in any year in which they shall apportion representation in the house of representatives, shall have the power to divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district. The number of senators shall not be less than twenty-five, nor more than thirty-four, and they shall be apportioned among the senatorial districts according to the total population contained in the senatorial districts; *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators."

Mr. Brazeale moved that said substitute be laid on the table indefinitely; the yeas and nays being called for,

Messrs. Walker, president; *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Downs*, *Humble*, *McCallop*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Wikoff* voted in the affirmative—30 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Culbertson*, *Derbes*, *Dunn*, *Hudspeth*, *Kenner*, *King*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mazureau*, *Pugh*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Winchester* and *Winder* voted in the negative—29 nays; consequently said motion was carried.

Mr. KENNER then moved to lay on the table indefinitely, the proviso and amendment offered by Mr. Downs; the yeas and nays being called for,

Messrs. *Aubert, Benjamin, Bourg, Cenas, Chinn, Claiborne, Conrad* of Orleans, *Culbertson, Derbes, Dunn, Eustis, Garrett, Hudspeth, Kenner, King, Legendre, Lewis, Marigny, Mazureau, O'Bryan, Pugh, Ratliff, St. Amand, Saunders, Sellers, Splane, Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Wadsworth, Wikoff, Winchester* and *Winder* voted in the affirmative—37 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Downs, Humble, Ledoux, McCallop, McRae, Mayo, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Read, Scott* of Feliciana, *Scott* of Madison, *Soulé, Stephens, Voorhies, Waddill* and *Wederstrandt* voted in the negative—28 nays; consequently the motion was carried.

Mr. DOWNS then offered the following substitute, which was adopted, viz:

"And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district."

Mr. DOWNS offered the following as a substitute for the first paragraph of said section, viz:

"The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives;" which substitute was adopted.

Mr. CONRAD of Orleans, offered the following amendment to the substitute of Mr. Downs, viz:

"Who, during the last six months, shall have paid, or at the time of election shall be liable to pay a State tax of one dollar."

Mr. BRENT moved that said amendment be laid on the table indefinitely; and the yeas and nays being called for,

Messrs. *Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, Kenner, King, Ledoux, Lewis, McCallop, McRea, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Pugh, Ratliff, Read, Saunders, Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulé, Splane, Stephens, Taylor* of Assumption, *Trist, Voorhies, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—49 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Claiborne, Conrad* of Orleans, *Legendre, Mazureau, St. Amand, Taylor* of St. Landry, *Wadsworth* and *Winchester* voted in the negative—12 nays; consequently said motion was carried.

Mr. WADSWORTH gave notice that he would on Thursday next, move to reconsider the vote giving to the senatorial district composed of the parishes of Plaquemines St. Bernard and right bank of the river one senator.

Mr. DOWNS moved for the adoption of the section as amended, to wit:

SEC. 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district, with two senators,

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge, shall compose one district with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermilion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district with one senator.

The parishes of St. Helena and Livingston, shall compose one district, with one senator.

The parishes of Washington and St. Tammany, shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Morehouse, Union and Jackson, shall compose one district with one senator.

The parishes of Ouachita and Caldwell shall compose one district with one senator.

The parishes of Franklin and Catahoula shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parishes of Natchitoches and Sabine shall compose one district, with two senators.

The parishes of Caddo and DeSoto shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

The yeas and nays being called for on the said adoption,

Messrs. *Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Downs, Garrett, Humble, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott*, of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Ratliff, Read, Scott* of Feliciana, *Scott of* Madison, *Splane, Stephens, Waddill, Wederstrandt* and *Wikoff* voted in the affirmative—31 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Cénas, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Hudspeth, Kenner, King, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, St. Amand, Saunders, Sellers, Soulé, Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Voorhies, Wadsworth, Winchester* and *Winder* voted in the negative—34 nays; consequently said motion was lost.

On motion the Convention adjourned till to-morrow, at 10 o'clock, a. m.

Note—Members absent, Messrs. *Briant, Covillion, Hynson*, and *Scott* of Baton Rouge, absent on leave; Messrs. *Guion* and *Leonard* absent on account of illness; and Messrs. *Boudousquie, Grymes, Labauve, Roman* and *Roselius*, did not appear in their seats.

Tuesday, April 1, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Scott opened the proceedings with prayer.

Mr. Kerr, one of the English reporters, furnished the printers' receipt for the reports of the debates of the 27th March.

Mr. Chinn, who had voted in the majority against the adoption of section 10th, article 2d, dividing the State into senatorial districts, gave notice that he would move for the reconsideration of the section.

Mr. Ratliff, of the committee of contingent expenses, made the following report:

The committee on contingent expenses, to whom was referred the resolution of the Convention of the 31st March, instructing them to report to the Convention how much money has been paid to the printers of the Convention, and the amount paid to each, submit the following report:

By application to the treasury department, we find that the sum of five thousand

and seventy-four dollars have been paid for printing since the Convention commenced its sitting in Jackson, including $100 paid to Jerome Bayon for 500 copies of the Journals of the Convention of 1811 and '12; to wit: Three thousand four hundred and seventy-four dollars to James Kelly; to Besançon & Ferguson, one thousand dollars; to Jerome Bayon, five hundred dollars. One half of one thousand dollars paid to Besançon & Ferguson is on account of extra printing. There has been nothing paid to Jerome Bayon, as yet, for extra printing; he not having presented any account to the committee.

All of which is respectfully submitted.

CYRUS RATLIFF,
Chairman Committee.

EXPENSES OF THE STATE CONVENTION FOR PRINTING, AND FOR COPIES OF JOURNALS, &c.

Paid J. A. Kelly, printer, on account of services, as per resolution of 12th August, 1844,	$1000 00
Paid Jerome Bayon, for 500 copies of Journal of 1811-12,	100 00
Paid J. A. Kelly, printer, on account of services, as per resolution of 24th August, 1844,	500 00
Paid J. A. Kelly, printer, 22d January, 1845,	350 00
Paid J. A. Kelly, printer, for copies of Journal, 22d January, 1845,	150 00
Paid Besançon, Ferguson & Co., for copies of Jeffersonian, 27th January, 1845,	500 00
Paid Jerome Bayon, for copies of Courier, 27th Jan., 1845,	500 00
Paid J. A. Kelly, late printer, balance for services, 8th February, 1845,	1474 00
Paid Besançon, Ferguson & Co., warrant favor J. P. Benjamin, for printing, 15th February, 1845,	500 00
	$5074 00

Mr. WADSWORTH gave notice that on the reconsideration of section 10th being granted, he would move to refer the same to a committee of five, with instructions.

With a view of furnishing the members an opportunity of conferring together on the subject of the 10th section, Mr. TAYLOR of Assumption moved for a recess of a half hour.

Mr. CONRAD of Orleans moved to amend the motion, and extend the recess to one hour; the amendment was lost.

The Convention went into recess for one half hour.

The half hour having expired, the PRESIDENT called the Convention to order.

Mr. VOORHIES moved to reconsider the 10th section, 2d article.

Mr. CONRAD of Orleans inquired of the President what would be the effect of the reconsideration, if granted.

The PRESIDENT replied that it would bring before the house the whole section, liable to modification and amendment, as it was when the question for adoption was put and lost.

The question of reconsideration was put and carried.

SEC. 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district with one senator.

The parishes of Morehouse, Union and Jackson shall compose one district, with one senator.

The parishes of Ouachita and Caldwell shall compose one district, with one senator.

The parishes of Franklin and Catahoula shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parishes of Natchitoches and Sabine shall compose one district with two senators.

The parishes of Caddo and De Soto shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

Mr. BRAZEALE, who had voted in the majority to lay indefinitely on the table the amendment offered by Mr. Taylor of Assumption, establishing a basis of apportionment and empowering the legislature to divide the State into senatorial districts, moved for the reconsideration of the amendment. The motion prevailed.

The legislature in any year in which they shall apportion representation in the house of representatives, shall have the power to divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district. The number of senators shall not be less than twenty-five nor more than thirty-four, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. BENJAMIN moved to strike out the words "have the power to." His motion prevailed.

Mr. MAYO moved to strike out the words "total population." The yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Carriere*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the affirmative—28 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Cènas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Kenner*, *Labauve*, *Legendre*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Scott* of Madison, *Sellers*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Winchester* and *Winder* voted in the negative—34 nays; consequently the motion was lost.

Mr. LEWIS moved to add after the words "total population," the words "territory equally."

Mr. DOWNS moved to amend Mr. Lewis' amendment by adding after the words "territory equally," the words "sea marshes, marshes, uninhabitable swamps, and sand banks excepted;" and on the adoption of

his amendment, the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Carriere*, *Chambliss*, *Downs*, *Humble*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Taylor* of Assumption, and *Wederstrandt* voted in the affirmative—23 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garrett*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mazureau*, *O'Bryan*, *Penn*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Sellers*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Waddill*, *Wikoff*, *Winchester* and *Winder* voted in the negative—39 nays; consequently said amendment was lost.

On the motion for the adoption of Mr. Lewis' amendment, the yeas and nays were called for, and

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Carriere*, *Chambliss*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *King*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Stephens*, *Taylor* of St. Landry, *Wederstrandt*, *Wikoff* and *Winder* voted in the affirmative—30 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousque*, *Burton*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Kenner*, *Labauve*, *Ledoux*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Scott* of Feliciana, *Sellers*, *Splane*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wadsworth* and *Winchester* voted in the negative—32 nays; consequently said amendment was lost.

Mr. Penn moved that the Convention adjourn till to-morrow at 10 o'clock, a. m. On the adoption of his motion the yeas and nays being called for,

Messrs. *Brazeale*, *Brumfield*, *Carriere*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wadsworth*, *Wederstrandt* and *Wikoff* voted in the affirmative—30 yeas; and

Messrs. *Aubert*, *Benjamin*, *Beatty*, *Boudousquie*, *Burton*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Mazureau*, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Splane*, *Voorhies*, *Winchester* and *Winder* voted in the negative—31 nays; consequently the motion was lost.

Mr. Mayo moved to amend Mr. Taylor's amendment, by inserting before the word "population" the word "white," and after the word "population" to insert the words and "three-fifths of the slaves."

Mr. Beatty then moved for the previous question.

Before putting this question,

On motion, the Convention adjourned till to-morrow, at 10 o'clock, a. m.

Wednesday, April 2, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Hinton opened the proceedings with prayer.

Mr. Isley, one of the English reporters, furnished the printers' receipt for the report of the debates of the 31st March.

Mr. Beatty submitted the following resolution, amendatory of the rules.

"*Resolved*, that all motions to lay on the table, shall be decided without debate."

"*Resolved*, That when the demand of the previous question is sustained by the house, it shall proceed immediately to vote on all the amendments that may be offered, and then on the main question without debate."

And moved that the rules be dispensed with, and that the committee take up the said resolution. His motion did not prevail.

On motion, leave of absence was granted to Mr. Chambliss for a few days.

ORDER OF THE DAY.

Art. II. Sec. 10. The State shall be divided into the following senatorial districts, and the senators to be elected, shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The parish of Plaquemines, St. Bernard and that portion of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension, shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall compose one district, with two senators.

The parishes of Iberville, and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Morehouse, Union and Jackson shall compose one district, with one senator.

The parishes of Ouachita and Caldwell shall compose one district, with one senator.

The parishes of Franklin and Catahoula shall compose one district, with one senator.

The parishes of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parishes of Natchitoches and Sabine shall compose one district, with two senators.

The parishes of Caddo and De Soto shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

Amendment offered by Mr. TAYLOR of Assumption, and under debate at the adjournment.

The legislature, in any year in which they shall apportion representation in the house of representatives, shall have the power to divide the State into senatorial districts. No parish shall be divided, in the formation of a senatorial district. The number of senators shall not be less than twenty-five, nor more than thirty-four; and they shall be apportioned among the senatorial districts according to the total population contained in the several districts. *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. DOWNS moved to add before the words "the legislature," the words "after the year 1855."

Mr. BEATTY called for the previous question."

On the question, "shall the previous question be now put?" the yeas and nays were called for. Mr. SAUNDERS in the chair.

Messrs. *Beatty, Chinn, Conrad* of Jeffer-

son, *Dunn*, *Kenner*, *Labauve*, *Legendre*, *Mazureau*, *Preston*, *Pugh* and *St. Amand* voted in the affirmative—11 yeas; and

Messrs. *Aubert*, *Boudousquié*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cénas*, *Claiborne*, *Culbertson*, *Derbes*, *Downs*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Ledoux*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prudhomme*, *Ratliff*, *Read*, *Roman*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Trist*, *Voorhies*, *Waddill*, *Wadsworth*, *Wederstrandt*, *Wikoff*, *Winchester* and *Winder* voted in the negative—48 nays; consequently said motion was lost.

On the adoption of Mr. Downs' amendment, the yeas and nays were called for. Mr. SAUNDERS in the chair.

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Claiborne*, *Downs*, *Garrett*, *Humble*, *King*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the affirmative—35 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Cénas*, *Chinn*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Guion*, *Hudspeth*, *Kenner*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Mazureau*, *Preston*, *Pugh*, *Sellers*, *Stephens*, *Trist*, *Wadsworth* and *Winder* voted in the negative—27 nays; consequently said motion was adopted.

Mr. MAYO moved to amend Mr. Taylor's amendment by adding before the word "population," the word "white," and after the word "population" the words "three-fifths of the slaves."

Mr. CLAIBORNE called for the previous question.

On the question, "shall the previous question be now put?" the yeas and nays were called for.

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brent*, *Brumfield*, *Carriere*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Guion*, *Kenner*, *King*, *Labauve*, *Legendre*, *McCallop*, *Mazureau*, *Preston*, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—44 yeas; and

Messrs. *Brazeale*, *Burton*, *Cade*, *Garrett*, *Hudspeth*, *Humble*, *Lewis*, *McRae*, *Mayo*, *O'Bryan* *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff*, *Read*, *Scott* of Madison, *Stephens*, *Waddill*, *Wederstrandt* and *Wikoff* voted in the negative—22 nays; consequently said motion prevailed, on the adoption of Mr. Taylor's amendment as amended, viz:

After the year 1845, the legislature, in any year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district. The number of senators shall not be less than twenty-five nor more than thirty-four, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

The yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Brent*, *Cade*, *Carriere*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Culbertson*, *Derbes*, *Downs*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Kenner*, *King*, *Labauve*, *McCallop*, *Mazureau*, *O'Bryan*, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Winchester* and *Winder* voted in the affirmative—40 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brumfield*, *Burton*, *Conrad* of Jefferson, *Dunn*, *Hudspeth*, *Humble*, *Legendre*, *Lewis*, *McRae*, *Mayo*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Saunders*, *Stephens*, *Waddill*, *Wadsworth* and *Wederstrandt* voted in the negative—26 nays; consequently said amendment was adopted.

Mr. PRESTON moved to amend the tenth section, second article, by giving to the

parish of Jefferson "two" members instead of "one."

Pending the discussion, on motion, the Convention adjourned till to-morrow at 10 o'clock, a. m.

NOTE.—Members absent, Messrs. Chambliss, Covillion, Briant and Hynson, absent on leave. Mr. Leonard, absent on account of illness; and Messrs. Grymes, Marigny, Porche and Soulé, did not appear in their seats.

THURSDAY, April 3, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. HINTON opened the proceedings by prayer.

Mr. KER, one of the English reporters, furnished the printers' receipts for the reports of the debates of the 29th March and of the 1st of April.

Mr. TAYLOR of Assumption, of the committee of revision, presented the following report:

The committee of revision, to whom the third article of the amended constitution was referred, have had the same under consideration, and now beg leave to report:

That they recommend that the words "created by law," in the seventh line of the second section should be struck out.

That section third be changed so as to read as follows:

"No person shall be eligible to the office of Governor, or Lieutenant Governor, who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within this State for the same space of time next preceding his election."

That the section numbered as section ten of the constitution of 1812, shall be changed by striking out the word "up" in the second line.

That the section now numbered as section twelve, be changed by adding before the first word, the words "there shall be," and striking out in the second, third, fourth, and fifth lines, the words "shall be nominated and appointed by the Governor, with the advice and consent of the senate, and commissioned." So that the section will then read,

"There shall be a Secretary of State to hold his office during the time for which the Governor shall have been elected." And the remainder of it as in the section already adopted.

Your committee further recommend that the sections of the third article be numbered in the order in which they are now arranged.

REVISED SECTIONS.

SEC. 2. The citizens entitled to vote for representatives, shall vote for a Governor and Lieutenant Governor, at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer, to the Secretary of State, who shall deliver them to the speaker of the house of representatives, on the second day of the session of the general assembly then next to be holden. The members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for Governor shall be declared duly elected, but if two or more persons shall be equal and highest in the number of votes polled for Governor, one of them shall be immediately chosen Governor by joint vote of the general assembly. The person having the greatest number of votes for Lieutenant Governor shall be Lieutenant Governor; but if two or more persons shall be equal and highest in the number of votes polled for Lieutenant Governor, one of them shall be immediately chosen Lieutenant Governor, by joint vote of the members of the generally assembly.

SEC. 3. No person shall be eligible to the office of Governor or Lieutenant Governor who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within this State for the same space of time next preceding his election.

SEC. 14. The Governor shall have power to fill vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution.

SEC. 21. There shall be a Secretary of State, to hold his office during the time for which the Governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of

the official acts and proceedings of the Governor, and when necessary shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

ARTICLE THIRD.

Sec. 1st. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of Louisiana. He shall hold his office during the term of four years, and together with the Lieutenant Governor, chosen for the same term, be elected as follows:

Sec. 2. The citizens entitled to vote for representatives, shall vote for Governor and Lieutenant Governor, at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted by the proper returning officer created by law, to the secretary of State, who shall deliver them to the speaker of the house of representatives, and on the second day of the session of the General Assembly then next to be holden, the members of the General Assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for Governor shall be declared duly elected. But if two or more persons shall be equal and highest in the number of votes polled for Governor, one of them shall be immediately chosen Governor by joint vote of the members of the General Assembly. The person having the greatest number of votes for Lieutenant Governor, shall be Lieutenant Governor, but if two or more persons shall be equal and highest in the number of votes polled for Lieutenant Governor, one of them shall be immedidiately chosen Lieutenant Governor, by joint vote of the members of the General Assembly.

Sec. 3. No person shall be eligible to the office of Governor or Lieutenant Governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceeding his election.

Sec. 4. The Governor shall enter into the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and his successor shall have taken the oath of affirmation prescribed by this constitution.

Sec. 5. No member of Congress or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of Governor or Lieutenant Governor.

Sec. 6. The Governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures, after conviction. In cases of treason, he may grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested.

Sec. 7. The Governor shall at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

Sec. 8. He shall be commander in chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States.

Sec. 9. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the power and duties shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, the impeachment, death, resignation, disability or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor, and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

Sec. 10. The lieutenant governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he continued in office.

Sec. 11. The lieutenant governor shall, by virtue of his office, be president of the

senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

Sec. 12. While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

Sec. 13. He shall nominate and appoint, with the advice and consent of the senate, all officers whose offices are established by this constitution, and whose appointments are not otherwise provided for; *provided however*, that the legislature shall have a right to prescribe the mode of appointment to all other offices to be established by law.

Sec. 14. The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution.

Sec. 15. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Sec. 16. He shall, from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

Sec. 17. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such a time as he may think proper, not exceeding four months.

Sec. 18. He shall take care that the laws be faithfully executed.

Sec. 19. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it; if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

Sec. 20. Every order, resolution or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him; or being disapproved, shall be re-passed by two-thirds of both houses.

Sec. 21. A Secretary of State shall be nominated and appointed by the governor, by and with the advice and consent of the senate, and commissioned to hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of secretary of State. He shall keep a fair register of the official acts and proceedings of the governor, and when necessary shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers, relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

Sec. 22. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal, and signed by the governor.

Sec. 23. The free white men of this State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but

shall pay an equivalent for personal services.

Sec. 24. The militia of this State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

On motion of Mr. Beatty, said report was laid on the table, until printed.

Mr. Beatty called up the resolution amendatory to the rules, to wit:

1. "*Resolved*, That all motions to lay on the table, shall be decided without debate."

Mr. Downs moved to amend by inserting after the words "lay on the table," the words "subject to call;" the amendment was adopted, and the resolution as amended was adopted.

2. "*Resolved*, That when the demand of the previous question is sustained by the house, it shall proceed immediately to vote on all the amendments that may be offered, and then on the main question, without debate." Adopted.

ORDER OF THE DAY.

Art. II. Sec. 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows, viz:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Pointe Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston, shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Morehouse, Union and Jackson shall compose one district, with one senator.

The parishes of Ouachita and Caldwell shall compose one district, with one senator.

The parishes of Franklin and Catahoula shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parishes of Natchitoches and Sabine shall compose one district, with two senators.

The parishes of Caddo and De Soto shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was

taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

"After the year 1855, the legislature in any year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district. The number of senators shall not be less than twenty-five, nor more than thirty-four, and they shall be apportioned among the senatorial districts according to the total population contained in the senatorial districts; *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators."

Mr. BENJAMIN moved to lay on the table subject to call, Mr. Preston's motion to allow "two senators" to Jefferson. His motion prevailed.

Mr. BENJAMIN moved that the number of senators be fixed at thirty-two.

Mr. PORTER moved to amend Mr. Benjamin's motion by saying "thirty-three," instead of "thirty-two." On the adoption of his motion, the yeas and nays were called for.

Messrs. *Brazeale*, *Brent*, *Burton*, *Carriere*, *Downs*, *Garrett*, *Humble*, *McCallop*, *McRea*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane* and *Wederstrandt* voted in the affirmative—24 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Boudousquie*, *Brumfield*, *Cade*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *Marigny*, *Mazureau*, *Preston*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Soulé*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Winchester* and *Winder* voted in the negative—43 nays; consequently said amendment was lost.

Mr. DOWNS moved to lay on the table Mr. BENJAMIN's amendment to limit the number of senators to thirty-two.

On the adoption of Mr. Downs' motion, the yeas and nays were called for,

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Downs*, *Garrett*, *Humble*, *Legendre*, *McCallop*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Stephens*, *Waddill* and *Wederstrandt* voted in the affirmative—28 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brumfield*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Lewis*, *Marigny*, *Mazureau*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Soulé*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wikoff*, *Winchester* and *Winder* voted in the negative—40 nays; consequently said motion was lost.

On the adoption of Mr. Benjamin's amendment, the yeas and nays were called for,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquié*, *Bourg*, *Brumfield*, *Cade*, *Carriere*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Lewis*, *McCallop*, *Marigny*, *Mazureau*, *Preston*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Soulè*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—46 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Downs*, *Garrett*, *Humble*, *Legendre*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane* and *Wederstrandt* voted in the negative—22 nays; consequently said amendment was adopted, and the number of senators was limited to thirty-two.

Mr. DOWNS moved as a substitute for the whole of section ten now before the Convention, the section numbered ten in the report of the majority of the legislative committee.

SEC. 10. The State shall be divided into eight senatorial districts, each of which shall elect four senators, to be voted for by persons entitled to vote for representatives, as follows:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall compose the first district.

The parishes of Plaquemines and St. Bernard, and the remainder of the parish of Orleans, parish of Jefferson, St. Charles and St. John the Baptist shall compose the second district.

The parishes of St. James, Ascension, Assumption, Lafourche Interior and Terrebonne, shall compose the third district.

The parishes of Iberville, West Baton Rouge, East Baton Rouge, Pointe Coupée and Avoyelles shall compose the fourth district.

The parishes of West Feliciana, East Feliciana, Washington, St. Tammany, St. Helena and Livingston shall compose the fifth district.

The parishes of Concordia, Carroll, Madison, Ouachita, Union, Franklin, Tensas, Morehouse, Catahoula, and Caldwell shall compose the sixth district.

The parishes of Rapides, Natchitoches, Caddo, Calcasieu, Claiborne, Sabine, Bossier and De Soto, shall compose the seventh district.

The parishes of St. Mary, St. Martin, St. Landry, Lafayette and Vermillion, shall compose the eighth district.

Provided, That the legislature shall have the power in any year in which they shall apportion representation in the house of representatives, to divide any one or more of said senatorial districts, each to be entitled to elect two senators.

Mr. TAYLOR of Assumption moved to lay indefinitely on the table the said substitute.

On the adoption of his motion the yeas and nays were called for,

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Brent, Brumfield, Burton, Cade, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—57 yeas; and

Messrs. Beatty, Brazeale, Downs, Eustis, Humble, Legendre, McRae, O'Bryan, Preston and Splane, voted in the negative—10 nays; consequently the motion prevailed.

Mr. BENJAMIN offered the following resolution, and moved its adoption.

Resolved, that the thirteen parishes of Natchitoches, Sabine, De Soto, Caddo, Claiborne, Bossier, Jackson, Union, Morehouse, Ouachita, Caldwell, Franklin and Catahoula, shall have but five senators.

The yeas and nays were called for and gave the following result:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brumfield*, *Burton*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Hudspeth*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *Marigny*, *Mazureau*, *Pugh*, *Ratliff*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wadsworth*, *Wikoff*, *Winchester* and *Winder*, voted in the affirmative—46 yeas; and

Messrs. *Brazeale*, *Brent*, *Cade*, *Carriere*, *Downs*, *Garrett*, *Humble*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Prudhomme*, *Read*, *Sellers*, *Splane*, *Stephens*, and *Wederstrandt*, voted in the negative—20 nays; consequently said resolution was adopted.

Mr. BRAZEALE stated to the Convention that the delegates from the parishes of Natchitoches, Sabine, DeSoto, Caddo, Claiborne and Bossier, had agreed to the following distribution of senators for these parishes, viz:

Parish of Natchitoches, one senator; Sabine, DeSoto and Caddo, one senator; Claiborne and Bossier, one senator.

The Convention adopted this distribution.

Mr. DOWNS stated to the Convention that the delegates from the parishes of Jackson, Union, Morehouse, Ouachita, Caldwell, Franklin and Catahoula had met, and had agreed but with one dissenting voice to the following distribution among these parishes, viz:

Parishes of Jackson, Union, Morehouse, Ouachita and Caldwell, one senator; Franklin and Catahoula, one senator.

Mr. GARRETT moved to add the parish of Caldwell to the parishes of Franklin and Catahoula.

The debate was suspended, and Mr. DOWNS moved for the reconsideration of the amendment offered by Mr. Taylor of Assumption, empowering the legislature to reapportion the senators, on the basis of total population; the reconsideration to be taken up to-morrow.

On motion the Convention adjourned till to-morrow at 10 o'clock, a. m.

NOTE.—Members absent, Messrs. Briant, Chambliss, Covillion and Hynson, absent on leave; Mr. Leonard absent on account of illness, and Mr. Porche did not appear in his seat.

FRIDAY, April 4, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings with prayer.

The reporters did not furnish the printers' receipt for the report of the debates.

Mr. GARRETT moved to reconsider the vote given yesterday, allowing to the parishes of Claiborne and Bossier one senator.

On the adoption of this motion the yeas and nays were called for:

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Bourg*, *Brumfield*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Garrett*, *Guion*, *Kenner*, *King*, *Labauve*, *Legendre*, *Mazureau*, *Penn*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, and *Winder* voted in the affirmative—26 yeas; and

Messrs. *Beatty*, *Brazeale*, *Burton*, *Cade*, *Carriere*, *Downs*, *Eustis*, *Hudspeth*, *Humble*, *Ledoux*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the negative—40 nays; consequently said motion was lost.

ORDER OF THE DAY.

SEC. 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

The parish of Plaquemines, St. Bernard and that portion of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension, shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall compose one district, with two senators.

The parishes of Iberville, and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livings-

ton shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Morehouse, Union and Jackson shall compose one district, with one senator.

The parishes of Ouachita and Caldwell shall compose one district, with one senator.

The parishes of Franklin and Catahoula shall compose one district, with one senator.

The parishes of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parishes of Natchitoches and Sabine shall compose one district, with two senators.

The parishes of Sabine Caddo and De Soto shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

After the year 1855, the legislature in every year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. Humble's motion to form into one district the parishes of Jackson, Union, Morehouse, Ouachita and Caldwell, with one senator, and Mr. Downs' motion to reconsider Mr. Taylor's amendment empowering the legislature to apportion the senate, and fixing the basis of apportion ment on "total population."

The Convention took up Mr. Humble' amendment, viz:

The parishes of Jackson, Union, More house, Ouachita and Caldwell shall com pose one district, with one senator.

Mr. GARRETT offered the following sub stitute, viz:

The parishes of Jackson, Union, More house and Ouachita shall form one district with one senator.

The parishes of Caldwell, Franklin an Catahoula, one district, with one senator.

Mr. Humble moved to lay on the tabl indefinitely Mr. Garrett's substitute.

On the adoption of his motion the yea and nays were called for:

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade Carriere*, *Downs*, *Humble*, *Ledoux*, *Mc Rae*, *Marigny*, *Mayo*, *O'Bryan Peets*, *Penn Porter*, *Prescott* of Avoyelles, *Prescott* o St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* o Baton Rouge, *Scott* of Feliciana, *Soulé Splane*, *Stephens*, *Voorhies*, *Waddill* an *Wederstrandt* voted in the affirmative— 28 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg Brumfield*, *Chinn*, *Claiborne*, *Conrad* o New Orleans, *Conrad* of Jefferson, *Cul bertson*, *Derbes*, *Dunn*, *Eustis*, *Garrett Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve Legendre*, *Lewis*, *Mazureau*, *Prudhomme Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Madison, *Sellers*, *Taylor* o Assumption, *Taylor* of St. Landry, *Trist*, *Wikoff*, *Winchester* and *Winder* voted in the negative—36 nays; consequently the motion was lost.

On the adoption of Mr. Garrett's substitute the yeas and nays were called:

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Brumfield*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Madison, *Sellers*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—37 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Downs*, *Humble*, *Ledoux*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott* of Avoyelles, *Pres-*

ott of St. Landry, *Preston*, *Ratliff*, *Read*, Scott of Baton Rouge, *Scott* of Feliciana, Soulé, *Splane*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the negative—27 ays; consequently said substitute was dopted.

Mr. Downs moved to reconsider Mr. aylor's amendment fixing the basis of total population" for senatorial represen- tion.

His motion prevailed.

Mr. Downs then moved to strike out the ords "after the year 1855;" his motion evailed.

Mr. O'Bryan moved to strike out the ords "total population" and insert the ords "basis of electors."

The President decided his motion to out of order, because the question had ready been decided.

Mr. Downs offered the following amend- ent, to be incorporated with the fourth ction.

"In all future apportionments of the nate, the population of New Orleans on e left bank of the river descending shall e deducted from the population of the hole State, and the remainder of the opulation divided by the number twenty- ght, and the quotient or result produced this division shall be the population en- ling a parish or other senatorial district a senator. Single or contiguous par- hes shall be formed into districts having population the nearest possible to the di- sor, and if a parish or district cannot be lowed a senator without a fraction of one ird over or under the ratio, then a dis- ct may be formed having not more than o senators, but not otherwise. When- er the election under a new apportion- ent shall have taken place, the seats of l the senators under the old apportion- ent shall become vacant, without regard the time they had served. All apportion- ents for senators made not in strict con- rmity to this section, shall be null and void, d after the census has been taken, and the neral assembly convened, it shall not be mpetent for the legislature to do any siness, except its own organization, un- an apportionment is made in strict con- rmity to this rule, and all acts and pro- edings of the then existing legislature, or y subsequent one, under an apportion- ent not in strict conformity to this con- tution shall be null and void.

On motion of Mr. Benjamin, said amend- ment was laid on the table subject to call, and was ordered to be printed.

Mr. Preston moved to reconsider the vote given on that part of Mr. Taylor's amendment, fixing the "total population" as the basis of the senatorial apportion- ment, with a view of inserting in lieu thereof "the electors" as the basis.

On motion of Mr. Taylor of Assumption, the rules were dispensed with, and the Convention proceeded to vote by yeas and nays on the reconsideration.

Messrs. *Brazeale*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Downs*, *Humble*, *Ledoux*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porter*, *Prescott*, of Avoyelles, *Pres- cott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Stephens*, *Waddill* and *Wederstrandt* voted in the affirmative 24 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Brent*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Guion*, *Huds- peth*, *King*, *Legendre*, *Lewis*, *Mazureau*, *Pruanomme*, *Pugh*, *Roman*, *Roselius*, *Saun- ders*, *Scott* of Feliciana, *Sellers*, *Soulé*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wikoff*, *Winchester* and *Winder* voted in the negative—37 nays; consequently said motion was lost.

Mr. Lewis moved to strike out the fol- lowing, to-wit:

"All that portion of the parish of Or- leans lying on the east side of the Missis- sippi river, shall be divided into three sen- atorial districts, as follows:

The first municipality shall compose one district, with one senator.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator;" and to sub- stitute all that portion of the parish of Or- leans, lying on the east side of the Missis- sippi river, shall compose one senatorial district, and shall elect four senators.

Pending the discussion, on motion, the Convention adjourned till to-morrow at 11 o'clock a. m.

Note.—Members absent: Messrs. Bri- ant, Chambliss, Covillion and Hynson, absent on leave. Mr. Leonard, absent on account of illness; and Messrs. Grymes, McCallop and Porche, did not appear in their seats.

SATURDAY, April 5, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings with prayer.

The reporters of the debates in English, did not furnish the printers' receipts.

Mr. LEWIS moved that the Convention remove Mr. Ilsley, one of the English reporters, from office.

On motion of Mr. SOULE, said motion was laid on the table subject to call.

ORDER OF THE DAY.

SEC. 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district with two senators.

The second municipality shall compose one district with one senator.

The third municipality shall compose one district with one senator.

The parish of Plaquemines, St. Bernard and that portion of the parish of Orleans on the right bank of the river, shall compose one district with one senator.

The parish of Jefferson shall compose one district with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge, shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Jackson, Union, Morehouse and Ouachita, shall compose one district, with one senator.

The parishes of Caldwell, Franklin and Catahoula, shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parish of Natchitoches shall compose one district, with one senator.

The parishes of Sabine, De Soto and Caddo, shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

The legislature in every year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district.

The number of senators shall be thirty two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. LEWIS' motion to strike out the following words, viz:

All that portion of the parish of Orleans, lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator.

And to substitute

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall compose one senatorial district, and shall elect four senators."—Which was under discussion at the adjournment, was taken up.

Mr. ROSELIUS offered the following amendment to Mr. Lewis' substitute:

Provided, however, that there shall always be in the senate, at least one member residing in each municipality.

Mr. BENJAMIN moved for a call of the house, when it appeared that the following members were present:

Messrs. Joseph Walker, President, Benjamin, Brazeale, Brent, Burton, Cade, Carriere, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, King, Labauve, Ledoux, Lewis, Legendre, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Preston, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Scott of Feliciana, Soulé, Splane, Taylor of Assumption, Voorhies, Waddill, Wederstrandt, Winchester and Winder.

Mr. BENJAMIN moved that the Convention adjourn till Monday at ten o'clock, a. m. In the adoption of his motion, the yeas and nays were called for:

Messrs. *Aubert, Benjamin, Cénas, Claiborne, Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, King, Labauve, Ledoux, Lewis, Marigny, Mazureau, Pugh, Ratliff, Read, Roman, Roselius, St. Amand, Soulè, Splane*, and *Winchester*, voted in the affirmative—31 yeas; and

Messrs. *Brazeale, Burton, Cade, Carriere, Downs, Humble, Mayo, O'Bryan, Peets, Prescott* of Avoyelles, *Preston, Saunders, Scott* of Feliciana, *Taylor* of Assumption, *Voorhies, Waddill, Wederstrandt* and *Winder*, voted in the negative—18 nays; consequently said motion was carried, and the Convention adjourned till Monday at ten o'clock, a. m.

NOTE—Members absent: Messrs. Briant, Chambliss, Covillion and Hynson, absent on leave; Mr. Leonard absent on account of illness; and Messrs. Bourg, Grymes, McCallop and Porche, did not appear in their seats.

MONDAY, April 7, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WOOLDRIDGE opened the proceedings with prayer.

Mr. Kerr furnished the printers' receipt for the debates of the 3d of April.

On motion, leave of absence for a few days was granted to Messrs. Bourg, Ratliff and Waddill.

ORDER OF THE DAY.

Section 10, article 2d, continued.

Mr. LEWIS moved to strike out the following words, viz:

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall de divided into three senatorial districts, as follows:

"The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

"The third municipality shall compose one district, with one senator."

And to substitute:

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall compose one senatorial district, and shall elect four senators."

And Mr. ROSELIUS' amendment to Mr. Lewis', viz:

"*Provided*, however, that there shall always be in the senate at least one member residing in each municipality."

On motion of Mr. CHINN, one o'clock was fixed for taking the vote on Mr. Lewis' motion to strike out and insert.

Mr. SPLANE handed a letter from Mr. Ilsly, one of the reporters of the debates in English, which was read, and he moved that said letter be spread on the journal. His motion was lost.

On motion of Mr. CULBERTSON, Mr. Ilsley's letter was laid on the table, subject to call.

Mr. SPLANE handed in Mr. Ilsley's written resignation as one of the reporters of the debates in English.

Said resignation was accepted.

Mr. CLAIBORNE moved to abolish the office of second reporter of the debates in English.

On the adoption of his motion, the yeas and nays were called for, and resulted as follows:

Messrs. Aubert, Benjamin, Boudousquie, Cade, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Guion, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mayo, Mazureau, Preston, Prudhomme, Pugh, Roman, Saunders, Scott of Madison, Sellers, Soulé, Stephens, Taylor of St. Landry and Wikoff voted in the affirmative—29 yeas; and

Messrs. Brazeale, Brent, Burton, Carriere, Downs, Dunn, Eustis, Garrett, Hudspeth, Humble, McRae, Marigny, O'Bryan, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Taylor of Assumption, Trist, Wederstrandt and Winder voted in the negative—26 nays; consequently said motion prevailed.

On motion of Mr. DOWNS, the Convention took up the following additional section, offered by him, to wit:

"In all future apportionments of the senate the population of New Orleans, on the left bank of the river, descending, shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division shall be the population entitling a parish or other senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor; and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise. Whenever the election, under a new apportionment shall have taken place, the seats of all the senators under the old apportionments shall be vacant, without regard to the time they had served. All apportionments for senators, made not in strict conformity to this section, shall be null and void; and after the census has been taken, and the general assembly convened, it shall not be competent for the legislature to do any business, except its own organization, until an apportionment is made in strict conformity to this rule; and all acts and proceedings of the then existing legislature, or any subsequent one, under an apportionment not in strict conformity to this constitution, shall be null a nd void."

Mr. BENJAMIN moved to strike out the following words:

"Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor, and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise."

It being now 1 o'clock, the hour fixed for taking the vote on Mr. Lewis' motion to strike out the following words:

"All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall be divided into three senatorial districts, as follows:

The first municipality shall compose one district, with two senators.

The second municipality shall compose one district, with one senator.

The third municipality shall compose one district, with one senator."

And to substitute the following words:

"All that portion of the Parish of Orleans lying on the east side of the Mississipp river shall compose one senatorial district and shall elect four senators."

Mr. MARIGNY moved to divide the question—that is, that the question be first put upon the striking out. The division was granted.

On the adoption of Mr. LEWIS' motion to strike out, the yeas and nays were called for.

Messrs. Auburt, Beatty, Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendré, Lewis, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers, Stephens, Taylor of Assumption, Taylor of St. Lan

dry and Voorhies voted in the affirmative—31 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, McRae, Marigny, Hayo, O'Bryon, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Trist, Wederstrandt and Wikoff voted in the negative—26 nays; consequently said motion prevailed.

Mr. Beatty moved to amend Mr. Lewis' amendment by adding "that part of the parish of Orleans situated on the right bank of the Mississippi river to the senatorial district of New Orleans."

On the adoption of his amendment the yeas and nays were called for.

Messrs. Beatty, Carriere, Downs, Ledoux, Legendré, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Taylor of Assumption, Trist and Voorhies voted in the affirmative—18 yeas; and

Messrs. Aubert, Benjamin, Boudousquié, Brazeale, Brent, Burton Cade, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Grymes, Guion, Hudspeth, Humble, Kenner, King, Labauve, Lewis, Marigny, Mazureau, Penn, Porche, Preston, Pugh, Roman, Roselius, Saunders, Scott of Madison, Soulé, Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winder voted in the negative—42 nays; consequently said amendment was lost.

On the adoption of Mr. Lewis' amendment as amended by Mr. Roselius, the yeas and nays were called for.

Messrs. Aubert, Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Carrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendré, Lewis, Mazureau, Pugh, Roman, Roselius, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies and Winder voted in the affirmative—30 yeas; and

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Downs, Eustis, Garcia, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Stephens, Trist, Wederstrandt and Wikoff voted in the negative,—31 nays; consequently said amendment was lost.

Mr. Marigny obtained leave to spread upon the journal, that he voted against the adoption of the clause as amended, because New Orleans is entitled to more than four senators; five should have been given to it—two for the first municipality—two for the second municipality and one for the third municipality.

Mr. Preston moved to amend the 10th section, second article, by filling the blank with the words

"That each municipality of the city of New Orleans shall elect one senator within its limits, and a senator shall be elected by the vote of the whole city of New Orleans."

On the adoption of his amendment the yeas and nays were called for.

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Penn, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Trist and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Aubert, Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendré, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wikoff and Winder voted in the negative—33 nays; consequently said amendment was lost.

Mr. Soule moved that the Convention adjourn till to-morrow at ten o'clock, a. m.; on the adoption of his motion the yeas and nays were called for, which was, 23 yeas and 37 nays; consequently said motion was lost.

Mr. Eustis, who had voted in the majority, moved to reconsider Mr. Lewis' amendment.

On the adoption of his motion the yeas and nays were called for.

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Con-

rad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Scott of Feliciana, Sellers, Taylor of Assumption, Taylor of St. Landry, Voorhies and Winder voted in the affirmative—34 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia Humble, Ledoux, McRae, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Madison, Soulé, Trist, Wederstrandt and Wikoff voted in the negative—25 nays.

Mr. McRae moved for for a call of the house, when it appeared that the following members were present:

Messrs. *Joseph Walker*, *President; Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Brazeale*, *Brent*, *Burton*, *Carriere*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garcia*, *Garrett*, *Grymes*, *Guion*, *Hudspeth*, *Humble*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Porter*, *Prescott*, of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Read*, *Roman*, *Roselius*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wederstrandt* and *Winder*—58 members.

On motion the Convention adjourned till to-morrow, at ten o'clock.

Note—Members absent, Messrs. *Bourg*, *Briant*, *Chambliss*, *Covillion*, *Hynson*, *Ratliff*, and *Waddill*, absent on leave; Mr. *Leonard*, absent on account of illness; and Messrs. *Brumfield*, *McCallop*, *St. Amand*, *Wadsworth* and *Winchester*.

Tuesday, April 8, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Beatty opened the proceedings with prayer.

Mr. R. J. Kerr furnished the secretary with the receipt of the printers to the Convention, for the reports in English of the debates of the Convention of the third instant.

ORDER OF THE DAY.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall compose one senatorial district, and shall elect four senators.

To which Mr. Roselius offered the following proviso:

Provided, *however*, that there shall always be in the senate at least one member residing in each municipality.

On motion of Mr. Boudousquie the proviso offered by Mr. Roselius was stricken out, viz:

Provided, *however*, that there shall always be in the senate at least one member residing in each municipality.

Mr. Soule offered the following amendment, viz:

Provided, the legislature which shall assemble immediately after the adoption of this constitution shall pass a law abolishing the division of the city into three municipalities, and constituting it again as a single corporation, with a single council and a single administration.

Mr. Saunders moved that the said amendment be laid on the table, subject to call, and the yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Brumfield*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Labauve*, *Legendre*, *Lewis*, *McRae*, *Mazureau*, *Penn*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Wikoff* and *Winder* voted in the affirmative—35 yeas; and

Messrs. *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Culbertson*, *Garcia*, *Humble*, *Ledoux*, *McCallop*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Read*, *Roselius*, *Scott* of Feliciana, *Soulé*, *Stephens*, *Waddill*, *Wadsworth* and *Wederstrandt* voted in the negative—25 nays; consequently the motion was carried.

Mr. Benjamin then moved for the adoption of the senatorial district composed of "all that portion of the parish of Orleans lying on the east side of the Mississippi river, with four senators." The yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Brumfield*, *Cènas*, *Chinn*, *Claiborne*, *Con-*

rad of New Orleans, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Eustis*, *Garrett*, *Grymes*, *Guion*, *Hudspeth*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Pugh Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth* and *Winder* voted in the affirmative—32 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Culbertson*, *Downs*, *Garcia*, *Humble*, *Ledoux*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Penn*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Read*, *Scott* of Feliciana, *Soulè*, *Trist*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Wikoff* voted in the negative—30 nays; consequently the motion was carried, and the senatorial district composed of all that portion of the parish of Orleans lying on the east side of the Mississippi river, with four senators, was adopted.

Mr. Soule then gave notice that he would, on a future day, move to reconsider the vote adopting the above senatorial district.

Mr. Roselius moved the adoption of the tenth section, as amended, viz:

Art. II. Sec. 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall compose one senatorial district, with four senators.

The parishes of Plaquemines, St. Bernard and that portion of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district with one senator.

The parishes of St. Charles and St. John the Baptist, shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

Here Mr. Trist gave notice that he would, on a future day, move to reconsider the vote forming one senatorial district, with two senators, of the parishes of St. James and Ascension.

The parishes of Assumption, Lafourche Interior and Terrebonne, shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge, shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Point Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parishes of St. Mary and St. Martin shall compose one district, with two senators.

Mr. Splane moved to amend the said senatorial district by dividing it into two separate districts, with one senator to each.

On motion of Mr. Benjamin the taking of the vote on the motion of Mr. Splane, was postponed until to-morrow, at one o'clock, p. m.

And pending the discussion on said motion the Convention adjourned till to-morrow, at 10 o'clock, a. m.

Note—Members absent, Messrs. *Bourg*, *Briant*, *Chambliss*, *Covillion* and *Ratliff*, absent on leave; Messrs. *Leonard* and *Porche*, absent on account of illness; and Messrs. *Kenner* and *Winchester* did not appear in their seats.

Wednesday, April 9, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

On motion of Mr. Garcia, the reading of the minutes of the preceding day was dispensed with. The honorable delegate then anounced to the Convention the lamentable news of the death of one of its members, Mr. Gilbert Leonard, the senatorial delegate from the parish of Plaquemines.

Mr. Wadsworth then offered the following resolutions, and the same were adopted, viz:

Resolved, That this Convention has heard with deep regret the news of the demise of their colleague, the honorable Gilbert Leonard, in whose death Louisiana deplores the loss of an able and faithful servant, and this Convention one of its most respected members.

Resolved, That the family of the deceased

be requested to deliver over his remains to be buried by the Convention, and a committee be appointed to consult with the family to that effect, and make the necessary arrangements for the funeral.

Resolved, That the members of the Convention wear crape for the space of thirty days, on the left arm, a token of respect for the deceased.

Resolved, That as a mark of respect for the deceased, this Convention do now adjourn until to-morrow morning at the usual hour, and that a copy of these resolutions be transmitted by the secretary to the family of the deceased.

The PRESIDENT appointed Messrs. Wadsworth, Carriere, Garcia, Saunders and Downs members of the committee of arrangement.

The Convention then adjourned until to-morrow at 10 o'clock, a. m.

THURSDAY, April 10, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK addressed the Throne of Grace.

In consequence of the preparations for the burial of the Hon. Gilbert Leonard, deceased,

The Convention adjourned till to-morrow at 10 o'clock, a. m.

FRIDAY, April 11, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the honorable Mr. STEPHENS, at the request of the President, opened the proceedings with prayer.

Mr. WIKOFF was excused for non-attendance on account of illness.

On motion leave of absence was granted to Messrs. Aubert, Guion, Penn, Read, Taylor of St. Landry, Voorhies and McRae.

Mr. HUMBLE submitted the following resolution:

Resolved, that from and after Monday, the 14th inst. the Convetion shall meet at nine o'clock, and at that time a call of the house shall be made, and the absentees marked.

Mr. BENJAMIN moved to amend said resolution by inserting the words "five ocloc'k p. m" instead of the words "nine o'clock;" which amendment was accepted by Mr. Humble, and the resolution as amended was adopted, viz:

Resolved, that from and after Monday, the 14th inst. the Convention shall meet at five o'clock p. m., and at the hours of meeting in the morning and evening, a call of the house shall take place, and the absentees be marked.

ORDER OF THE DAY.

SEC. 10, continued. The parishes of St. Mary and St. Martin shall compose one senatorial district with two senators.

The question under discussion was the motion of Mr. Splane to amend, by dividing the said district into two separate districts, with one senator to each.

Mr. ROMAN moved that the amendment of Mr. Splane be laid on the table indefinitely, and called for the yeas and nays, which resulted as follows:

Messrs. *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garrett*, *Hudspeth*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Pugh*, *Roman*, *Saunders*, *Sellers* and *Winchester* voted in the affirmative—22 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Downs*, *Eustis*, *Humble*, *McCallop*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Trist*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Winder* voted in the negative—30 nays; consequently the motion was lost.

Mr. SPLANE then moved for the adoption of the amendment, and the yeas and nays being called for, resulted as follows:

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Cénas*, *Downs*, *Eustis*, *Humble*, *McCallop*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott*, of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Trist*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Winder* voted in the affirmative—30 yeas; and

Messrs. *Benjamin*, *Bourg*, *Briant*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dunn*, *Garrett*, *Hudspeth*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Roman*, *Saunders*, *Sel-*

lers and *Winchester* voted in the negative—21 nays; consequently the amendment was carried, and the district composed of the parish of St. Mary, with one senator, and the district composed of the parish of St. Martin, with one senator, were adopted.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston, shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Jackson Morehouse, Union and Ouachita shall compose one district, with one senator.

The parishes of Franklin, Caldwell and Catahoula shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parish of Natchitoches shall compose one district, with one senator.

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

The legislature, in every year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts; provided, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. Downs moved to amend, by adding after the words "no parish shall be divided in the formation of a senatorial district," the words "except the parish of Orleans."

Mr. Beatty moved for the previous question.

The President then put the question, "shall the main question be now put?" and the yeas and nays being called for,

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Downs*, *Garcia*, *Humble*, *Ledoux*, *Lewis*, *McCallop*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Ratliff*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Stephens*, *Trist*, *Waddill* and *Wederstrandt* voted in the affirmative—28 yeas; and

Messrs. *Benjamin*, *Bourg*, *Briant*, *Cênas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Dunn*, *Eustis*, *Garrett*, *Hudspeth*, *Labauve*, *Legendre*, *Mazureau*, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Roman*, *Rosclius*, *Saunders*, *Sellers*, *Wadsworth*, *Winchester* and *Winder* voted in the negative—26 nays; consequently the motion was carried.

Mr. Downs then moved for the adoption of the amendment, and the yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Benjamin, Bourg, Briant, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Hudspeth, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Wadsworth, Winchester and Winder voted in the negative—27 nays; consequently said amendment was adopted.

Mr. Benjamin offered the following amendment, viz:

The city of New Orleans shall not be divided by any legislative act, in the apportionment of senators.

On the motion to adopt said amendment, the yeas and nays being called for,

Messrs. Benjamin, Bourg, Briant, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Hudspeth, Labauve, Legendre, Lewis, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Roselius, Saunders, Sellers, Wadsworth, Winchester and Winder voted in the affirmative—28 yeas; and

Messrs. Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Humble, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Trist, Waddill and Wederstrandt voted in the negative—27 nays; the President voted in the minority, which made the vote equal, consequently the motion was lost.

Mr. Benjamin gave notice that he would on Tuesday next, move to reconsider all the votes given on that day.

Mr. Downs then moved for the adoption of the section as amended, viz:

ARTICLE II.

Section 10. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river, shall compose one senatorial district, and shall elect four senators.

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator.

The parish of Jefferson shall compose one district, with one senator.

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator.

The parishes of St. James and Ascension shall compose one district, with two senators.

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators.

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator.

The parish of East Baton Rouge shall compose one district, with one senator.

The parish of Pointe Coupée shall compose one district, with one senator.

The parish of Avoyelles shall compose one district, with one senator.

The parish of St. Mary shall compose one district, with one senator.

The parish of St. Martin shall compose one district, with one senator.

The parishes of Lafayette and Vermillion shall compose one district, with one senator.

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators.

The parish of West Feliciana shall compose one district, with one senator.

The parish of East Feliciana shall compose one district, with one senator.

The parishes of St. Helena and Livingston shall compose one district, with one senator.

The parishes of Washington and St. Tammany shall compose one district, with one senator.

The parishes of Concordia and Tensas shall compose one district, with one senator.

The parishes of Carroll and Madison shall compose one district, with one senator.

The parishes of Jackson, Morehouse, Union and Ouachita shall compose one district, with one senator.

The parishes of Caldwell, Franklin and Catahoula, shall compose one district, with one senator.

The parish of Rapides shall compose one district, with one senator.

The parishes of Bossier and Claiborne shall compose one district, with one senator.

The parish of Natchitoches shall compose one district, with one senator.

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator.

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of it was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district.

The legislature, in every year in which they shall apportion representation in the house of representatives, shall divide the

State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts; provided that no parish shall be entitled to more than one-eighth of the whole number of senators.

Mr. BENJAMIN moved to adjourn till tomorrow at 11 o'clock, a. m.; the yeas and nays being called for,

Messrs. *Benjamin*, *Briant*, *Cenas*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Eustis*, *Legendre*, *Lewis*, *Mazureau*, *Roselus*, *Trist*, *Waddill* and *Wadsworth* voted in the affirmative—14 yeas; and

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Chinn*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Garcia*, *Garret*, *Hudspeth*, *Humble*, *Ledoux*, *McCallop*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Stephens*, *Wederstandt*, *Winchester* and *Winder* voted in the negative—39 nays; consequently said motion was lost.

On the motion to adopt the section as amended, the yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Carriere, Downs, Garcia, Garrett, Hudspeth, Humble, Labauve, Ledoux, Lewis, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt and Winder voted in the affirmative—34 yeas; and

Messrs. Benjamin, Bourg, Briant, Cènas, Chinn, Claiborne, Conrad of Orleans, Culbertson, Derbes, Dunn, Eustis, Legendre, Mazureau, Pugh, Roman, Roselius, Saunders, Wadsworth and Winchester voted in the negative—19 nays; consequently said section as amended, was adopted.

Mr. CONRAD of Orleans moved to adjourn till to-morrow at 10 o'clock, a. m.; the yeas and nays being called for,

Messrs. Benjamin, Bourg, Cénas, Claiborne, Conrad of Orleans, Derbes, Garcia, Labauve, Legendre, Mazureau, Roman, Roselius, Stephens and Wadsworth voted in the affirmative—14 yeas; and

Messrs. Beatty, Brazeale, Brent, Briant, Burton, Cade, Carriere, Chinn, Downs, Dunn, Eustis, Garrett, Humble, Ledoux, Lewis, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Waddill, Wederstrandt, Winchester and Winder voted in the negative—36 nays; consequently said motion was lost.

On motion of Mr. DOWNS, the Convention took up the following additional section, offered by him, to wit:

"In all future apportionments of the senate the population of New Orleans, on the left bank of the river, descending, shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division shall be the population entitling a parish or other senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor; and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise. Whenever the election, under a new apportionment shall have taken place, the seats of all the senators under the old apportionments shall be vacant, without regard to the time they had served. All apportionments for senators, made not in strict conformity to this section, shall be null and void; and after the census has been taken, and the general assembly convened, it shall not be competent for the legislature to do any business, except its own organization, until an apportionment is made in strict conformity to this rule; and all acts and proceedings of the then existing legislature, or any subsequent one, under an apportionment not in strict conformity to this constitution, shall be null and void."

Mr. BENJAMIN moved to strike out the following words:

"Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor, and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise."

Mr. Downs moved for a division, that is, that the Convention first proceed to strike out the words "single or contiguous parishes, shall be formed into districts having a population nearest the divisor."

Mr. Conrad of New Orleans, moved to lay on the table indefinitely the following paragraph of said section, viz:

"In all future apportionments of the senate the population of New Orleans, on the left bank of the river, descending, shall be deducted from the population of the whole State; and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division shall be the population entitling a parish or other senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor; and if a parish or district cannot be allowed a senator, without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise."

Mr. Downs submitted the following resolution, viz:

"*Resolved*, That all motions for reconsideration shall be decided without debate."

Mr. Conrad of New Orleans, submitted the following amendment, viz:

"*Resolved*, That no vote on the constitution shall be reconsidered, unless there be a greater number of members present when the vote for a reconsideration is taken, than when the original vote was taken."

On motion, the Convention adjourned till to-morrow at 10 o'clock, a. m.

Note.—Members absent: Messrs. Porche, Taylor of Assumption and Wikoff, absent on account of illness; Messrs. Aubert, Chambliss, Covillion, Guion, Penn, Read, Taylor of St. Landry and Voorhies, absent on leave; and Messrs. Boudousquie, Brumfield, Grymes, Kenner, King, McRae and St. Amand did not appear in their seats.

Saturday, April 12, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens, at the request of the President, opened the proceedings with prayer.

The secretary reported the receipt of the printers for the reports of the debates in English, of the 8th inst.

On motion, leave of absence was granted to Messrs. Chinn, Derbes, Scott of Baton Rouge, and Saunders.

On motion, Mr. Hudspeth was excused for non-attendance, on account of illness.

The Convention then took up the following resolution, offered by Mr. Downs on yesterday, viz:

Resolved, that all motions for reconsideration be decided without debate.

Mr. Downs moved for the adoption of said resolution; the yeas and nays being called for, (Mr. Claiborne in the chair) resulted as follows:

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Covillion*, *Culbertson*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Scott* of Feliciana, *Splane*, *Stephens*, *Waddill* and *Wederstrandt* voted in the affirmative—27 yeas; and

Messrs. *Benjamin*, *Bourg*, *Briant*, *Cènas*, *Conrad* of Orleans, *Eustis*, *Mazureau*, *Porter*, *Pugh*, *Ratliff*, *Roman*, *Roselius*, *Sellers*, *Taylor* of Assumption, *Winchester* and *Winder* voted in the negative—17 nays; consequently said motion was carried, and the resolution adopted.

The Convention then took up the following resolution, offered on yesterday by Mr. Conrad of Orleans, viz:

Resolved that no vote on the constitution shall be reconsidered, unless there be a greater number of members present when the vote for a reconsideration is taken, than when the original vote was taken.

Mr. Benjamin offered the following as a substitute for the said resolution, and the same was accepted by Mr. Conrad, viz:

Resolved, that no vote on the constitution shall be reconsidered, unless a greater number of members vote for the reconsideration than voted in favor of the motion which it is proposed to reconsider.

The yeas and nays being called for on the adoption of the above substitute, (Mr. Claiborne in the chair) resulted as follows:

Messrs. *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Burton*, *Cade*, *Carriere*, *Cènas*, *Conrad* of Orleans, *Covillion*, *Culbertson*, *Downs*, *Dunn*, *Garrett*, *Hynson*, *McCallop*, *Mayo*, *Mazureau*, *Peets*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *Scott* of Feliciana, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wederstrandt*, *Winchester* and *Winder*, voted in the affirmative—36 yeas; and

Messrs. *Eustis*, *Humble*, *Marigny*, *O'Bryan*, *Porter* and *Ratliff* voted in the negative—6 nays; consequently the motion was carried, and the substitute adopted.

The Convention then proceeded to the

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it being the additional section offered by Mr. Downs, viz:

In all future apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division, shall be the population entitling a parish or other senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor, and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise. Whenever the election under a new apportionment shall have taken place, the seats of all the senators under old apportionments shall be vacant, without regard to the time they had served. All apportionments for senators, made not in strict conformity to this section, shall be null and void, and after the census has been taken and the general assembly convened, it shall not be competent for the legislature to do any business except its own organization, until an apportionment is made in strict conformity to this rule, and all acts and proceedings of the then existing legislature or any subsequent one, under an apportionment not in strict conformity to this constitution, shall be null and void.

Mr. Downs moved to correct the phraseology by striking out the word "divisor" in the thirteenth line, and insert in lieu thereof, the words "number entitling a district to a senator;" which motion prevailed.

Mr. Soule moved to correct the phraseology by striking out the words "and if a parish or district cannot be allowed a senator with a fraction of one-third over or under the ratio," and insert in lieu thereof, the words "and if in the apportionment to be made, a parish or district be found to be deficient of or to exceed by one-third the ratio;" which motion prevailed.

The question under consideration at the adjournment on yesterday, was the motion of Mr. Conrad of Orleans, to lay indefinitely on the table the following paragraphs of said section, viz:

In all future apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division, shall be the population entitling a parish or other senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the divisor, and if a parish or district cannot be allowed a senator without a fraction of one-third over or under the ratio, then a district may be formed having not more than two senators, but not otherwise.

Mr. Downs moved for a division, that is, the Convention first proceed to act from the first to the tenth line, then from the tenth line to the thirteenth line, and then from the thirteenth line to the eighteenth line to the word "otherwise;" which motion prevailed.

The yeas and nays being called for to lay on the table indefinitely all the words from the first to the tenth line, (Mr. Claiborne in the chair) resulted as follows:

Messrs. *Benjamin*, *Bourg*, *Briant*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Dunn*, *Marigny*, *Mazureau*, *Roman* and *Roselius* voted in the affirmative—11 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Covillion*, *Downs*, *Garrett*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *Mayo*, *O'Bryan*, *Peets*,

Porter, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Ratliff*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wederstrandt*, *Winchester* and *Winder* voted in the negative—32 nays; consequently said motion was lost.

The yeas and nays were then called for on the motion to lay on the table indefinitely all the words from the tenth line to the thirteenth line, resulted as follows:

Messrs. *Briant*, *Claiborne*, *Conrad* of New Orleans, *Conrad* of Jefferson, *Eustis*, *Lewis*, *Marigny*, *Mazureau*, *Roman*, *Roselius*, *Sellers* and *Winchester* voted in the affirmative—12 yeas; and

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Covillion*, *Culbertson*, *Downs*, *Garrett*, *Humble*, *Hynson*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Ratliff*, *Scott* of Feliciana, *Scott* of Madison, *Soulé*, *Splane*, *Taylor* of Assumption, *Waddill*, *Wederstrandt* and *Winder* voted in the negative—30 nays; consequently said motion was lost.

Mr. Conrad of Orleans, offered as a substitute to the third paragraph, the following, viz:

And whenever contiguous parishes shall in the aggregate have a population sufficient to entitle them to two senators, they may be formed into two separate districts, provided that neither district shall have a population of more than one-third over or under the ratio.

Mr. Downs moved to lay on the table indefinitely the substitute offered by Mr. Conrad.

At ten minutes after one o'clock, there being barely a quorum, Mr. Claiborne moved that the Convention adjourn till Monday next at ten o'clock, a. m.; and the yeas and nays being called for,

Messrs. *Briant*, *Claiborne*, *Conrad* of Orleans, *Lewis*, *Pugh*, *Roman*, *Roselius* and *Winchester* voted in the affirmative—8 yeas; and

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Covillion*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Ratliff*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Stephens*, *Taylor* of Assumption, *Wadsworth* and *Wederstrandt* voted in the negative—30 nays; consequently said motion was lost.

At sixteen minutes after 1 o'clock, Mr. Brent moved for a call of the house, and the following members answered to their names, viz:

Messrs. *Joseph Walker*, president; *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Claiborne*, *Conrad* of New Orleans, *Covillion*, *Downs*, *Eustis*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *Lewis*, *Marigny*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Pugh*, *Ratliff*, *Roman*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Stephens*, Taylor of Assumption, *Waddill*, *Wadsworth* and *Wederstrandt*—being in all, 37.

Mr. Soule then moved that for the want of a quorum, the Convention adjourn till Monday next at ten o'clock, a. m.; which motion prevailed.

Note—Members absent: Messrs. Hudspeth, Porche and Wikoff, absent on account of illness; Messrs. Aubert, Chambliss, Chinn, Derbes, Guion, King, McRae, Penn, Read, Saunders, Scott of Baton Rouge, Taylor of St. Landry, and Voorhies, absent on leave; and Messrs. Boudousquié, Garcia, Grymes, Kenner, Labauve, Legendre, Preston, St. Amand and Trist did not appear in their seats.

Monday, April 14, 1845.

The Convention met pursuant to adjournment, at 10 o'clock, a. m.

Mr. Beatty moved that for the want of a quorum, only twenty-eight members having answered to their names at the call of the roll, the Convention adjourn for one hour. The yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Burton, Cade, Cénas, Chambliss, Covillion, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, Prudhomme, Pugh, Read, Scott of Feliciana, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Brumfield, Dunn, Roman and Winder voted in the negative—4 nays; consequently the motion was carried, and the Convention adjourned for an hour for want of a quorum.

Note—Members absent at the call of

the roll: Messrs. Aubert, Chinn, Derbes, Guion, King, McRae, Penn, Saunders, Scott of Baton Rouge, Taylor of St. Landry and Voorhies absent on leave; Messrs. Hudspeth and Porche on account of illness; and Messrs. Benjamin, Boudousquiè, Bourg, Briant, Brumfield, Carriere, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culberstson, Downs, Eustis, Garcia, Garrett, Grymes, Kenner, Labauve, Legendre, McCallop, Marigny, Mazureau, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Roselius, St. Amand, Scott of Madison, Sellers, Soulé, Splane, Trist, Wadsworth and Winchester did not answer to their names at the call of the roll.

At the appointed hour, the PRESIDENT called the Convention to order, and on the roll being called, forty-six members answered to their names.

The Rev. Mr. WARREN opened the proceedings with prayer.

The secretary reported the receipt of the printers for the reports of the debates in English of the 11th instant.

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Second paragraph of the section offered by Mr. Downs, viz:

"Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator, and if in the apportionment to be made a parish or district be found to be deficient of or to exceed by one-third the ratio, then a district may be formed having not more than two senators, but not otherwise."

Mr. CONRAD of Orleans offered at the last adjournment as a substitute for said paragraph, the following, viz:

"Whenever contiguous parishes shall have in the aggregate a population sufficient to entitle them to two senators, they may be formed into two separate districts; *provided*, that neither district shall have a population of more than one-third over or under the ratio."

The question under consideration at the last adjournment, was the motion of Mr. Downs, to lay on the table indefinitely the above substitute.

The yeas and nays being called for on said motion, resulted as follows:

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Feliciana, Scott of Madison, Splane, Stephens, Waddill and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Benjamin, Briant, Claiborne, Conrad of Orleans, Culbertson, Dunn, Hudspeth, Lewis, Mazureau, Pugh, Ratliff, Roman, Sellers, Taylor of Assumption, Wikoff and Winchester voted in the negative—16 nays; consequently said motion was carried.

Mr. CLAIBORNE moved to strike out all the words from the eighteenth line to the twenty-third line, and insert in lieu thereof the following substitute, viz:

"Whenever a new apportionment shall be made the term of service of all the senators whose districts may be thereby altered or reorganized, shall expire so soon as the election shall take place in the new districts, without regard to the time such senators shall have served under the old apportionment."

Mr. BENJAMIN offered as a substitute to the substitute of Mr. Claiborne, the following, viz:

"No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment."

Mr. DOWNS moved to amend the above substitute, by adding the words "except those whose districts are changed." Which motion was lost.

Mr. BRENT moved for the previous question, and the president (Mr. Winchester in the chair) put the question, "shall the main question be now put?" The yeas and nays being called for,

Messrs. Brazeale, Brent, Carriere, Chambliss, Downs, Hudspeth, Humble, Hynson, Lewis, McCallop, Porter, Prescott of Avoyelles, Prescott of St. Landry, Read, Scott of Feliciana, Scott of Madison, Soulé and Waddill voted in the affirmative—18 yeas; and

Messrs. Beatty, Benjamin, Bourg, Briant, Cade, Claiborne, Conrad of Orleans, Covillion, Culbertson, Dunn, Eustis, Garcia, Garrett, Ledoux, Mayo, Mazureau, O'Bryan, Peets, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Roman, Sellers, Splane, Stephens, Taylor of Assumption,

Wederstrandt, Wikoff and Winder voted in the negative—30 nays; consequently said motion was lost.

Mr. BENJAMIN then moved for the adoption of the substitute, and the yeas and nays being called for,

Messrs. *Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cade, Claiborne, Conrad* of Orleans, *Covillion, Culbertson, Dunn, Eustis, Garcia, Garrett, Hudspeth, Ledoux, Lewis, McCallop, Mayo, Mazureau, Peets, Prescott*, of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Pugh, Ratliff, Roman, Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Stephens, Taylor* of Assumption, *Wikoff* and *Winder* voted in the affirmative 36 yeas; and

Messrs. *Brazeale, Brent, Carriere, Chambliss, Downs, Humble, Hynson, Marigny, O'Bryan, Porter, Read, Soulé, Waddill* and *Wederstrandt* voted in the negative—14 nays; consequently said motion was carried, and the substitute adopted.

Mr. EUSTIS moved to strike out the words from the twenty-third line to the thirty-first line.

Mr. RATLIFF moved for a division, to strike out first the words from the twenty-third line to the twenty-fifth line; his motion prevailed, and the words were stricken out.

On the motion to strike out the words from the twenty-fith line to the thirty-first line, the yeas and nays being called for,

Messrs. *Benjamin, Briant, Burton, Cade, Cénas, Claiborne, Conrad* of New Orleans, *Eustis, Hudspeth, Ledoux, Lewis, Marigny, Mayo, Mazureau, Prescott* of St. Landry, *Prudhomme, Pugh, Ratliff, Roman, Sellers, Soulé* and *Splane* voted in the affirmative—22 yeas; and

Messrs. *Beatty, Brazeale, Brent, Brumfield, Carriere, Chambliss, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, McCallop, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Preston, Read, Roselius, Scott* of Feliciana, *Scott* of Madison, *Stephens, Taylor* of Assumption, *Waddill, Wederstrandt, Wikoff* and *Winder* voted in the negative—28 nays; consequently the motion was lost.

Mr. TAYLOR of Assumption offered as a substitute for the whole section the following, viz:

"In all future apportionments of the senate the State shall be divided into sixteen districts. The city of New Orleans shall be divided so as to form two districts. The population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number fourteen, and the quotient produced by this division shall be the representative number entitling a senatorial district to two senators. Single or contiguous parishes shall be formed into districts, in such manner as to have a population the nearest possible to the representative number. After the census has been taken, and the general assembly convened, the legislature shall not pass any law until an apportionment is made."

On the motion of Mr. Taylor of Assumption, for the adoption of the above substitute, the yeas and nays being called for, resulted as follows:

Messrs. *Beatty, Benjamin, Bourg, Briant, Cènas, Conrad* of New Orleans, *Eustis, Hudspeth, Legendre, Lewis, Mazureau, Prescott* of St. Landry, *Pugh, Roman, Taylor* of Assumption, *Winchester* and *Winder* voted in the affirmative—17 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Claiborne, Covillion, Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Preston, Prudhomme, Ratliff, Read, Roselius, Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulè, Splane, Stephens, Waddill, Wederstrandt* and *Wikoff* voted in the negative—36 nays; consequently the motion was lost.

Mr. MAYO moved to amend by adding after the word "legislature" in the twenty-eighth line, the words "to pass any laws after the first forty days of the session;" which motion was lost.

Mr. LEWIS moved for the previous question.

The PRESIDENT put the question, "shall the main question be now put;" which motion prevailed.

Mr. CONRAD of New Orleans, moved to amend by striking out from the third paragraph the words "or to exceed." The yeas and nays being called for, resulted as follows, viz:

Messrs. *Benjamin, Bourg, Briant, Cènas, Claiborne, Conrad* of New Orleans,

Eustis, Hudspeth, Legendre, Mazureau, Pugh, Ratliff, Roman, Roselius, Taylor of Assumption, *Winchester* and *Winder* voted in the affirmative—17 yeas; and

Messrs. *Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, Prescott*, of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Read, Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulé, Splane, Stephens, Waddill, Wederstrandt* and *Wikoff* voted in the negative—34 nays; consequently the motion was lost.

Mr. Benjamin moved to strike out from the sixteenth line the word "may," and insert in lieu thereof the word "shall." The yeas and nays being called for, resulted as follows:

Messrs. *Beatty, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad* of New Orleans, *Hudspeth, Legendre, Lewis, Mazureau, Pugh, Roman, Roselius, Taylor* of Assumption, *Winchester* and *Winder* voted in the affirmative—17 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Burton, Cadc, Carriere, Chambliss, Covillion, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, Mayo, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Ratliff, Read, Scott* of Feliciana, *Scott* of Madison, *Sellers, Soulè, Splane, Stephens, Waddill, Wederstrandt* and *Wikoff* voted in the negative—34 nays; consequently the motion was lost.

Mr. Brent gave notice that he would, on to-morrow, move a reconsideration of the vote given on Mr. Benjamin's amendment, to insert one-fifth instead of one-third.

Mr. Downs moved for the adoption of the section as amended, viz:

"In all future apportionments of the senate the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the quotient or result produced by this division shall be the population entitling a parish to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if, in the apportionment to be made, a parish or district be found to be deficient of or to exceed one-fifth the ratio, then a district may be formed having not more than two senators, but not otherwise. No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment, and after the census has been taken and the general assembly convened, the legislature shall not pass any laws until the apportionment be made.

The yeas and nays being called for on the adoption of the above section as amended, resulted as follows:

Messrs. *Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Downs, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Pugh, Ratliff, Read, Scott* of Feliciana, *Scott* of Madison, *Sellers Soulé, Splane, Stephens, Waddill, Wederstrandt, Wikoff* and *Winchester* voted in the affirmative—39 yeas; and

Messrs. *Benjamin, Briant, Cenas, Claiborne, Conrad* of Orleans, *Eustis, Legendre, Mazureau, Roman, Roselius, Taylor* of Assumption and *Winder* voted in the negative—12 nays; consequently the motion was carried, and the section as amended was adopted.

Note—Members absent at the call of the roll, Messrs. *Aubert, Guion, King, McRae, Penn, Saunders, Scott* of Baton Rouge, *Taylor* of St. Landry, and *Voorhies*, absent on leave; Mr. *Porche*, absent on account of illness; and Messrs. *Boudousquie, Briant, Cénas, Conrad* of Jefferson, *Derbes, Downs, Eustis, Garcia, Grymes, Kenner, Labauve, Marigny, Preston, Ratliff, Roselius, St. Amand, Soulé, Trist*, and *Winchester* did not answer to their names at the call of the roll.

On motion the Convention adjourned till five o'clock this evening.

Monday Evening, April 14, 1845.

The Convention met pursuant to adjournment.

The President called the Convention to order, and on the call of the roll, the following members answered to their names, viz:

Messrs. Joseph Walker, *President*,

Beatty, Bourg, Brazeale, Brent, Burton, Cénas, Downs, Eustis, Hudspeth, Humble, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Read, Roman, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Waddill, Wederstrandt and Winder—total, 31.

Members absent at the call of the roll.—Messrs. Aubert, Chinn, Guion, Derbes, McRae, Penn, Saunders, Scott of Baton Rouge, Taylor of St. Landry and Voorhies absent on leave; Messrs. Brumfield and Porche absent on account of illness; and Messrs. Benjamin, Boudousquié, Briant, Cade, Carriere, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Garrett, Grymes, Hynson, Kenner, Labauve, Ledoux, Legendré, Lewis, Mazaureau, Preston, Ratliff, Roselius, St, Amand, Stephens, Taylor of Assumption, Trist, Wadsworth, Wikoff and and Winchester did not answer to their names at the call of the roll.

At ten minutes after 5 o'clock, Mr. Brent moved for a call of the house, and the following members answered to their names, viz:

Messrs. Joseph Walker, *President*, Beatty, Benjamin, Bourg, Brazeale, Brent, Burton, Cade, Cénas Conrad of Orleans, Downs, Eustis, Hudspeth, Humble, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Read, Roman, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Waddill, Wederstrandt, Winchester and Winder—total, 36.

Members absent at the call of the house: Messrs. Aubert, Chinn, Derbes, Guion, King, McRae, Penn, Saunders, Scott of Baton Rouge, Taylor of St. Landry and Voorhies absent on leave; Messrs. Porche and Brumfield absent on account of illness; and Messrs. Boudousquie, Briant, Carriere, Chambliss, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Dunn,Garcia, Garrett, Grymes, Hynson, Kenner, Labauve, Ledoux, Legendre, Lewis, Mazureau, Preston, Ratliff, Roselius, St. Amand, Trist, Wadsworth and Wikoff did not answer to their names at the call of the house.

After a quarter of an hour had elapsed, Mr. Brent moved for a call of the house, and the following members answered to their names, viz:

Messrs. Joseph Walker, *President*, Beatty, Benjamin, Bourg, Brazeale, Brent, Burton, Cade, Cénas, Chambliss, Conrad of Orleans, Downs, Eustis, Garrett, Hudspeth, Humble, McCallop, Marigny, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Read, Roman, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Waddill, Wederstrandt, Winchester and Winder—total, 39.

Members absent at the call of the house: Messrs. Aubert, Chinn, Derbes, Gnion, King, McRae, Penn, Saunders, Scott of Baton Rouge, Taylor of St. Landry and Voorhies absent on leave; and Messrs. Porche and Brumfield absent on account of illness; and Messrs. Boudousquie, Briant, Carriere, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Grymes, Hynson, Kenner, Labauve, Ledoux, Legendre, Lewis, Mazureau, Preston, Ratliff, Roselius, St. Amand, Trist, Wadsworth and Wikoff did not answer to their names at the call of the house.

On motion of Mr. Soule, the Convention then adjourned for the want of a quorum, till to-morrow at 10 o'clock, a. m.

Tuesday, April 15, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Twitchard opened the proceeding with prayer.

Mr. Brent moved that the secretary be ordered to furnish the printers with a separate list, containing the names of the absentees at the calls of the house.

The yeas and nays being called for:

Messrs. *Beatty*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Conrad* of Orleans, *Conrad* of Jefferson, *Covillon*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Read*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wadsworth*, *Wederstrandt*, *Wikoff* and *Winder* voted in the affirmative—39 yeas; and

Messrs. *Bourg*, *Cènas*, *Dunn*, *Mazureau*,

Ratliff, *Roman* and *Winchester* voted in the negative—7 nays; consequently the motion was carried.

Mr. Brent moved to reconsider the vote given on yesterday, on the adoption of the section offered by Mr. Downs, as amended; which motion was lost.

On motion, the 3d section of article 2d, which had been laid on the table subject to call, was called up, viz:

Sec. 3. "Representatives shall be chosen on the first Monday, one day only, in November, every two years; and the general assembly shall convene on the third Monday in January next ensuing the election, in every second year, unless a different day be appointed by law; and their different sessions, shall be held at the seat of government.

"The first election under this constitution shall take place in the year ——."

On motion of Mr. Downs, the last paragraph of said section was stricken out, viz:

"The first election under this constitution shall take place in the year ——."

On motion, the section as amended was adopted, viz:

Sec. 3. "Representatives shall be chosen on the first Monday, one day only, in November every two years; and the general assembly shall convene on the third Monday in January next ensuing the election, in every second year, unless a different day be appointed by law; and their different sessions shall be held at the seat of government."

On motion, the 11th section of article 2d was called up, viz:

Sec. 11. "At the session of the general assembly, after this constitution takes effect, the senators shall be divided by lot as equally as may be into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; so that one-half shall be chosed every two years, and a rotation thereby kept up perpetually."

Mr. Conrad of New Orleans, offered the following amendment, and the same was adopted, viz:

"In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them."

On motion, the section as amended was adopted, viz:

Sec. 11. "At the session of the general assembly after this constitution takes effect, the senators shall be divided by lots as equally as may be into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually.

"In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them."

On motion, the 12th section was called up, viz:

Sec. 12. "No person shall be a senator who, at the time of his election, has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and one year in the district in which he may be chosen."

Mr. Read offered the following as a substitute for said section, viz:

Sec. 12. "Every qualified elector shall be eligible to a seat in the State senate."

Mr. Conrad of New Orleans, moved to lay said substitute on the table indefinately; the yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Burton, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Garrett, Hudspeth, Lewis, Marigny, Mazureau, Peets, Prescott of St. Landry, Prudhomme, Pugh, Roman, Sellers, Splane, Stephens, Taylor of Assumption, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—29 yeas; and

Messrs. Brazeale, Brent, Brumfield, Carriere, Chambliss, Covillion, Humble, Hynson, McCallop, Mayo, O'Bryan, Porter, Prescott of Avoyelles, Preston, Ratliff, Read, Scott of Feliciana, Scott of Madison, Waddill and Wederstrandt voted in the negative—20 nays; consequently said motion was carried.

On motion, the 12th section was then adopted.

On motion, the 13th section was called up, viz:

Sec. 13. "The first election for sena

tors shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be a biennial election of senators, to fill the place of those whose time of service may have expired."

On motion, said section was adopted.

On motion, the 23d section was called up, viz:

SEC. 23. "No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly, or to any office of profit or trust under this State."

Mr. MAYO moved to lay said section on the table indefinately; and the yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Brent, Burton, Cade, Carriere, Chambliss, Claiborne, Downs, Hudspeth, Humble, Hynson, Lewis, Mayo, O'Bryan, Peets, Pugh, Scott of Madison, Stephens, Waddill and Winchester voted in the affirmative—22 yeas; and

Messrs. Brazeale, Briant, Brumfield, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Dunn, Garrett, Ledoux, McCallop, Marigny, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Roman, St. Amand, Scott of Feliciana, Sellers, Splane, Taylor of Assumption, Wadsworth, Wederstrandt, Wikoff and Winder voted in the negative—30 nays; consequently the motion was lost.

Mr. MAYO moved to strike out from said section the following words, viz:

"Or to any office of profit or trust under this State." Which motion prevailed.

On motion, the section was adopted as amended, viz:

SEC. 23. "No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly."

Mr. TAYLOR of Assumption, called up the following section, which had been laid on the table subject to call, viz:

"Absence from the State for more than sixty days shall interrupt the residence required in the preceding section, unless the person absenting himself, shall be a housekeeper, or shall occupy a tenement for carrying on some business, and his dwelling house, or the tenement for carrying on his business, shall be actually occupied during his absence, by his family or servants or some portion thereof, or by some person employed by him."

On motion of Mr. PORTER, said section was amended by adding after the word "interrupt," the words "acquisition of."

Mr. CONRAD of Orleans, moved to amend, by striking out the words "sixty days," and insert in lieu thereof the words "four months."

The yeas and nays being called for, (Mr. Claiborne in the chair):

Messrs. Brumfield, Burton, Cade, Cénas, Chambliss, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Garrett, McCallop, Marigny, Mayo, Mazureau, Peets, Prescott of St. Landry, Preston, Pugh, Scott of Madison, Sellers, Waddill and Winchester voted in the affirmative—23 yeas; and

Messrs. Brazeale, Brent, Briant, Carriere, Covillion, Hudspeth, Humble, Hynson, Ledoux, Lewis, O'Bryan, Porter, Prescott of Avoyelles, Prudhomme, Ratliff, Read, Roman, St. Amand, Scott of Feliciana, Splane, Stephens, Taylor of Assumption, Wederstrandt and Wikoff voted in the negative—24 nays; consequently the motion was lost.

Mr. CULBERTSON moved to strike out the word "sixty" and insert in lieu thereof the word "ninety;" which motion prevailed.

Mr. MAYO moved to lay the section and amendments on the table, subject to call, which motion was lost.

Mr. CONRAD of Orleans gave notice that he would on a future day move to reconsider the vote given on the adoption of "ninety days" instead of "sixty days."

Mr. HUMBLE moved to lay the section as amended on the table indefinitely; the yeas and nays being called for,

Messrs. Beatty, Benjamin, Brent, Burton, Chambliss, Downs, Dunn, Garrett, Humble, Ledoux, McCallop, Mayo, Peets, Prescott of Avoyelles, Preston, Scott of Madison, Sellers, Splane, Waddill and Wederstrandt voted in the affirmative—20 yeas; and

Messrs. Bourg, Brazeale, Briant, Cade, Carriere, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Garcia, Hudspeth, Hynson, Legendre, Lewis, Marigny, Mazureau,

O'Bryan, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Feliciana, Soulé, Stephens, Taylor of Assumption, Wikoff, Winchester and Winder voted in the negative—34 nays; consequently said motion was lost.

Mr. Beatty offered the following as a substitute for the whole section, viz:

"The legislature shall pass laws defining the manner in which a residence required for voters by this constitution may be acquired or lost."

Mr. Taylor of Assumption moved to lay the substitute on the table indefinitely; the yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Downs, Garcia, Hudspeth, Humble, Hynson, Ledoux, Legendré, Lewis, McCallop, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Scott of Feliciana, Scott of Madison, Soulé, Stephens, Taylor of Assumption, Wadsworth, Wederstrandt and Winder voted in the affirmative—45 yeas; and

Messrs. Beatty, Benjamin, Burton, Dunn, Eustis, Garrett, Preston, Sellers, Splane and Waddill voted in the negative—10 nays; consequently the motion was adopted.

Mr. Taylor of Assumption moved to reconsider the vote adopting "ninety" instead of "sixty" days, in order to give Mr. Claiborne, who was in the Chair, an opportunity to vote. The yeas and nays being called for,

Messrs. Benjamin, Briant, Burton, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Eustis, Garrett, Legendre, Marigny, Peets, Preston, Pugh, Roman, St. Amand, Sellers, Splane, Waddill, Wadsworth, Wederstrandt and Winchester voted in the affirmative—25 yeas; and

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Cade, Carriere, Chambliss, Covillion, Garcia, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, Mayo, Mazureau, O'Bryan, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Feliciana, Scott of Madison, Soulé, Stephens, Taylor of Assumption and Winder voted in the negative—32 nays; consequently said motion was lost.

Mr. Taylor of Assumption then moved the adoption of the section as amended, viz:

Absence from the State for more than ninety consecutive days, shall interrupt the acquisition of the residence required in the preceding section, unless the person absenting himself shall be a house-keeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrying on his business, shall be actually occupied during his absence by his family or servants, or some portion thereof, or by some one employed by him.

The yeas and nays being called for on the adoption of said section:

Messrs. Bourg, Brazeale, Briant, Brumfield, Cade, Cénas, Claiborne, Covillion, Culbertson, Garcia, Hudspeth, Hynson, Legendre, Lewis, McCallop, Marigny, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Wadsworth, Winchester and Winder, voted in the affirmative—34 yeas; and

Messrs. Beatty, Benjamin, Brent, Burton, Carriere, Chambliss, Conrad of Orleans, Conrad of Jefferson, Downs, Dunn, Eustis, Garrett, Humble, Mayo, Porche, Prescott of St. Landry, Preston, Roselius, Sellers, Splane and Wedertrandt, voted in the negative—21 nays; consequently the motion was carried, and the section was adopted.

Mr. Conrad of Orleans, gave notice that he would on Thursday next call up a section offered by him and laid on the table, defining the qualifications of electors.

Mr. Eustis, chairman of the committee of revision, reported the seventh article of the constitution.

On motion of Mr. Downs, the report of the majority on the judiciary was called up, viz:

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the city of New Orleans as the legislature may, from time to time direct.

Mr. Lewis moved that the Convention

adjourn till to-morrow at ten o'clock, a. m.

The PRESIDENT decided the motion to adjourn till to-morrow to be out of order. The Convention having adopted a rule by which they were to meet every evening at five o'clock, p. m. and unless said rule was rescinded, such motions cannot be allowed.

Mr. LEWIS appealed from the decision of the chair.

The PRESIDENT then put the question, shall the decision of the chair be sustained?

The appeal was rejected, and the decision of the chair was sustained.

Mr. LEWIS then moved for a dispensation of the rules, to rescind the resolution fixing the evening sessions; the yeas and nays being called for,

Messrs. Benjamin, Boudousquie, Brent, Briant, Brumfield, Cenas, Conrad of Jefferson, Hudspeth, Hynson, Ledoux, Lewis, Mazureau, Porche, Porter, Ratliff, Read, Roman, Roselius, Splane, Stephens, Taylor of Assumption, Wikoff and Winchester, voted in the affirmative—23 yeas; and

Messrs. Beatty, Bourg, Brazeale, Burton, Carriere, Chambliss, Chinn, Covillion, Downs, Dunn, Garrett, Guion, Humble, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Pugh, St. Amand, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Waddill, Wederstrandt and Winder, voted in the negative—31 nays; consequently the motion was lost.

Mr. TAYLOR of Assumption, gave notice that he would on to-morrow move to reconsider the vote adopting the rule fixing the evening sessions.

Mr. BENJAMIN moved that the Convention adjourn till 5 o'clock, p. m., which motion was lost.

Mr. SOULE agreeably to notice previously given, moved to reconsider the vote adopting the senatorial apportionment of New Orleans; the yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Chambliss, Covillion, Downs, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Waddill, Wederstrandt and Wikoff voted in the affirmative—30 yeas; and

Messrs. Benjamin, Boudousquié, Bourg, Briant, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garrett, Guion, Hudspeth, Lewis, Mazureau, Pugh, Roman, Roselius, St. Amand, Sellers, Taylor of Assumption, Winchester and Winder voted in the negative—26 nays; consequently said motion was carried.

On motion of Mr. SOULE, the consideration of the subject was made the order of the day for Friday next, at 12 o'clock, m.

Mr. GARRETT objected to the question of reconsideration being carried, on the ground that it was not carried by the majority required by the rule, *i. e.*, that the number voting for the reconsideration was less than the number who voted for the motion proposed to be reconsidered.

Mr. SOULE then said that if it should be decided that his motion to reconsider had not prevailed, that he would now give notice that he would move for the reconsideration on Friday next, at 12 o'clock, m.

Mr. BRENT moved for a call of the house, and fifty-two members answered to their names, and the following members were absent, viz: Messrs. Aubert, Derbes, King, Penn, Scott of Baton Rouge, Taylor of St. Landry and Voorhies absent on leave; Messrs. Boudousquié, Brumfield, Grymes, Kenner, Legendre, Mazureau, Prudhomme, Roselius, St. Amand, Saunders, Trist and Wadsworth did not answer to their names at the call of the house.

On motion, the Convention adjourned till this evening, at 5 o'clock, p. m.

TUESDAY EVENING, April 15, 1845.

The Convention met pursuant to adjournment.

ORDER OF THE DAY.

ARTICLE FOURTH—JUDICIARY POWER—REPORT OF THE COMMITTEE.

The judiciary committee report to the Convention the following sections of article fourth of the constitution concerning the judiciary department.

JOHN R. GRYMES, Chairman.

SEC. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the city of New Orleans as the legislature may from time to time direct.

SEC. 2. The supreme court shall have

appellate jurisdiction only except in cases hereinafter provided, which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars.

Sec. 3. The supreme court shall be composed of one chief justice and of three associate justices, a majority of whom shall constitute a quorum; each of said judges shall receive a salary of thousand dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of ten years.

Sec. 4. The supreme court shall hold its sessions in the city of New Orleans from the month of November to the month of June inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year. Until otherwise provided, the sessions shall be held in New Orleans.

Sec. 5. The supreme court and each of the judges thereof, shall have power to issue writs of habeas corpus at the instance of all persons in actual custody under civil process.

On motion of Mr. Preston the 1st, 2d, 3d and 4th sections of said report were laid on the table subject to call.

On motion, section 5th was adopted, viz:

Sec. 5. The supreme court, and each of the judges thereof, shall have power to issue writs of habeas corpus, at the instance of all persons in actual custody under civil process.

On motion section 6th was adopted, viz:

Sec. 6. The appellate jurisdiction of the supreme court shall extend to all cases in which the constitutionality or legality of any tax, toll, or impost of any kind or nature soever shall be in contestation, whatever may be the amount thereof; and, likewise, to all fines, forfeitures and penalties imposed by municipal corporations.

On motion section 7th was adopted, viz:

Sec. 7. The supreme court shall have appellate jurisdiction in criminal cases, on questions of law alone, in all cases in which the punishment of death or hard labor may be inflicted, or a fine exceeding three hundred dollars is actually imposed.

On motion of Mr. Winchester the vote adopting the 5th section was reconsidered.

Mr. Brent then moved to amend said section by adding, after the last word, the words, "in all cases in which they may have appellate jurisdiction," and striking out the word "civil."

Mr. Saunders moved to lay said section 5th on the table indefinitely, which motion was lost.

Mr. Conrad of Orleans, moved that the same be laid on the table subject to call, which motion prevailed.

Mr. Roselius moved that the Convention adjourn till to-morrow at 10 o'clock, a. m., which motion was lost.

On motion section 9th was adopted, viz:

Sec. 9. The judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be, "The State of Louisiana."

All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude, against the peace and dignity of the same.

On motion, the 10th section was taken up, viz:

Sec. 10. The judges of all courts shall, in all cases, give in writing, their reasons on which their judgment is founded.

Mr. Benjamin offered as a substitute for the said section, the 12th section of the constitution of 1812, and the same was adopted, viz:

Sec. 12, of 1812. The judges of all courts within this State shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may have been rendered, and in all cases adduce the reasons on which their judgment is founded.

On motion, section eleven was taken up.

Sec. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions, but such as are purely judicial; and no other duties or functions shall ever be attached, by law, to the office of a judge, but such as are judicial.

Mr. Beatty moved to lay said section on the table subject to call.

Mr. Saunders moved that the Convention adjourn till to-morrow at 10 o'clock, a. m.; the motion was lost, the vote being equal, the President voted in the negative.

Mr. Beatty then renewed his motion to lay the said section on the table, subject to call, and the same was carried.

On motion, section twelve was taken up, viz:

Sec. 12. No court, or judge of any court, shall ever have the power, by any order or judgment, in any suit, process, or other proceeding before them, or pending in such court, to order or adjudge any money to be paid by the parties to such suits or proceedings, or make any allowance out of any money or property that may be in actual custody of said court or officers thereof, except for the payment of the legal fees of the ministerial officers of the said court, as allowed and established by law.

On motion of Mr. Saunders, said section was laid on the table, subject to call.

On motion section thirteen was taken up, viz:

Sec. 13. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient ground for impeachment, the Governor shall remove any of them on the address of three-fourths of each house of the general assembly.

Mr. Read moved to amend said section, by striking out the following words: "But for any reasonable cause, which shall not be sufficient cause for impeachment, the Governor shall remove any of them, on the address of three-fourths of each house of the general assembly," and insert in lieu thereof the following words of the —— section of the constitution of 1812. "But for any reasonable cause, which shall not be sufficient cause for impeachment, the Governor shall remove any of them, on the address of three-fourths of each house of the general assembly; provided, however, that the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted on the journal of each house."

On motion, said section was adopted as amended, viz:

Sec. 13. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient cause for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly; provided, however, that the cause or causes for which such removal may be required, shall be stated at length in their address, and inserted on the journal of each house.

On motion, the Convention adjourned till to-morrow, at ten o'clock, a. m.

Note—Members absent at the call of the roll, *Messrs. Aubert, King, Penn, Scott* of Baton Rouge, *Taylor* of St. Landry and *Voorhies*, absent on leave; *Mr. Porche*, absent on account of illness; *Messrs. Benjamin, Briant, Cade, Carriere, Chinn, Claiborne, Conrad* of Jefferson, *Culbertson, Dunn, Eustis, Garcia, Grymes, Kenner, Labauve, Ledoux, Legendre, Lewis, Porter, Roman, Roselius, Saunders, Soulé, Taylor* of Assumption, *Trist, Wadsworth*, and *Wikoff* did not answer at the call of the roll.

Wednesday, April 16, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens, at the request of the president, opened the proceedings with prayer.

On motion, leave of absence was granted to Mr. Cade.

On motion of Mr. Ledoux, the vote adopting the 13th section of the majority report of the committee on the judiciary, adopted on yesterday, was reconsidered.

On motion of Mr. Ledoux, said section was called up, viz:

Sec. 13. "The judges of all courts shall be liable to impeachment; but for any reasonable cause which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly; *provided*, however, that the cause or causes, for which such removal may be required, shall be stated at length in the address, and inserted on the journal of each house."

Mr. Ledoux moved to amend said section, by inserting after the words "three-fourths," the words "of the members present."

And the yeas and nays being called for on the adoption of the amendment,

Messrs. Beatty, Boudousquie, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, Humble, Hynson, Kenner, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, St. Amand, Scott of Feliciana, Scott of Madison, Splane, Ste-

phens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—33 yeas; and

Messrs. Benjamin, Conrad of Orleans, Culbertson, Dunn, Eustis, Garrett, Guion, Hudspeth, Legendré, Lewis, Mazureau, Porter, Ratliff, Read, Sellers, Wikoff, Winchester and Winder voted in the negative—17 nays; consequently said motion was carried, and the amendment adopted.

On motion, the 13th section as amended was adopted, viz:

Sec. 13. "The judges of all courts shall be liable to impeachment; but for any reasonable cause which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly; *provided*, however, that the cause or causes for which such removal may be required, shall be stated at length in the address and inserted on the journal of each house."

Agreeably to notice given yesterday, Mr. Taylor of Assumption, moved to reconsider the vote adopting the rule fixing the evening sessions; and the yeas and nays being called for,

Messrs. Briant, Brumfield, Cénas, Conrad of Jefferson, Eustis, Garcia, Legendre, Lewis, McCallop, Porter, Ratliff, St. Amand, Soulé, Splane, Taylor of Assumption and Winchester voted in the affirmative—16 yeas; and

Messrs. Beatty, Benjamin, Brazeale, Brent, Burton, Carriere, Chambliss, Chinn, Covillion, Culbertson, Downs, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, McRae, Marigny, Mayo, Mazueau, O'Bryan, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Saunders, Scott of Feliciana, Scott of Madison, Sellers, Waddill, Wadsworth, Wederstrandt and Winder voted in the negative—36 nays; consequently said motion was lost.

On motion, the first section of the majority report of the committee on the judiciary, and laid on the table subject to call, was taken up, viz:

Sec. 1. "The judicial power shall be vested in a supreme court, in district courts to be established throughout the State; in justices of the peace; and in such other courts in the city of New Orleans as the legislature may from time to time direct."

The question under discussion was the motion of Mr. Ratliff to amend said section by striking out the words "in the city of New Orleans."

And pending the discussion on said motion, the Convention adjourned till this evening at 5 o'clock, p. m.

Note—Members absent; Messrs. Aubert, Cade, Derbes, King, Penn, Scott of Baton Rouge, Taylor of St. Landry and Voorhies absent on leave; Mr. Porche absent on account of illness; and Messrs. Benjamin, Claiborne, Conrad of Jefferson, Culberstson, Downs, Eustis, Garcia, Grymes, Labauve, Ledoux, Legendre, Preston, Roman, Roselius, St. Amand, Sellers, Soulé, Trist, Winchester and Winder did not answer to their names at the call of the roll.

Wednesday Evening, April 16, 1845.

The Convention met pursuant to adjournment.

Mr. Marigny gave notice that he will on Friday next, move to reconsider the vote adopting the rule requiring a larger vote on a motion to reconsider, than voted at the adoption of the motion it is intended to reconsider.

ORDER OF THE DAY.

Section 1st of the majority report on the judiciary.

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the city of New Orleans as the legislature may from time to time direct.

The question under consideration at the adjournment, was the motion of Mr. Ratliff to amend said section by striking out the words "in the city of New Orleans."

After some discussion on the above amendment, Mr. Porter moved for a call of the house, and fifty-three members answered to their names; and the following members were absent at the call, viz:

Messrs. *Aubert, Cade, Derbes, King, Penn, Scott* of Baton Rouge, *Taylor* of St. Landry, and *Voorhies*, absent on leave. *Mr. Porche*, absent on account of sickness; and Messrs. *Garcia, Grymes, Hudspeth, Labauve, Legendre, Lewis, Roman, St. Amand, Trist, Wadsworth, Wikoff* and *Winchester* did not answer at the call of the house.

Mr. Chinn then moved that the Con-

vention adjourn till to-morrow at 10 oclock, a. m.; the yeas and nays being called for,

Messrs. Boudousquie, Briant, Burton, Carriere, Chinn, Covillion, Guion, Kenner, Marigny, Porter, Preston, Prudhomme, Pugh, Ratliff, Roselius, Saunders, Scott of Feliciana, Sellers, Soulé, Taylor of Assumption, Waddill and Winder voted in the affirmative—22 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeal, Brent, Brumfield, Cenas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Downs, Dunn, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Marigny, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Read, Scott of Madison, Splane, Stephens, Wederstrandt and Winchester voted in the negative—32 nays; consequently said motion was lost.

And pending the discussion on the motion of Mr. Ratliff to strike out, the Convention adjourned till to-morrow at 10 o'clock, a. m.

Note.—Members absent at the call of the roll, Messrs. Aubert, Cade, Derbes, King, Penn, Scott of Baton Rouge, Taylor of St. Landry, and Voorhies, absent on leave. Mr. Porche, absent on account of sickness, and Messrs. Carriere, Chinn, Claiborne, Conrad of Jefferson, Culbertson, Downs, Garcia, Grymes, Guion, Kenner, Labauve, Ledoux, Legendre, Porter, Preston, Prudhomme, Roman, Roselius, St. Amand, Saunders, Trist, Wadsworth, Wikoff and Winchester did not answer at the call of the roll.

Thursday, April 17, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens, at the request of the president, opened the proceedings with prayer.

Mr. Dunn gave notice that he would on to-morrow, move to reconsider the vote adopting the rule requiring the secretary to furnish the printers with the names of the members absent at call of the roll, or when a call of the house is made, to publish in the morning and evening papers.

The secretary reported the receipt of the printers for the reports of the debates of the 12th instant.

This being the day fixed for the taking into consideration the reports of the committee of revision, the report of said committee on the executive department being first in order, was submitted.

On motion of Mr. Taylor of Assumption, said report was laid on the table, subject to call.

Mr. Dunn gave notice that he would on a future day, introduce a section providing that the lieutenant-governor shall be superintendent of education.

ORDER OF THE DAY.

First section of the majority report on the judiciary.

Sec. 1. The judicial power shall be vested in a supreme court, in district courts, in justices of the peace, and such other courts in the city of New Orleans, as the legislature may from time to time direct.

The question under consideration at the adjournment, was the motion of Mr. Ratliff to strike out the words "in the city of New Orleans."

Mr. O'Bryan moved that the debate on the subject under consideration, cease this evening at 7 o'clock, p. m.

On motion, the Convention adjourned till 5 o'clock, p. m.

Note.—Members absent: Messrs. Aubert, Cade, Derbes, Penn, Taylor of St. Landry and Voorhies absent on leave; Messrs. Porche and Trist absent on account of sickness; and Messrs. Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Eustis, Garcia, Grymes, Guion, Labauve, Marigny, Ratliff, Roman, Roselius, St. Amand, Soulé, Splane, Wadsworth, Wikoff and Winchester did not answer to their names at the call of the roll.

Thursday Evening, April 17, 1845.

The Convention met pursuant to adjournment.

Mr. Soule submitted the following resolution, viz:

Resolved, that during the continuance of morning and evening sittings, the reporters be required to furnish only the outlines of the debates.

Mr. Roselius moved to amend the above resolution as follows, viz: "that hereafter the report of the debates of the evening sittings be dispensed with.

Mr. Downs offered the following substitute, viz:

Resolved, that an additional reporter in English be appointed.

Mr. CLAIBORNE moved to amend said substitute by adding "also, an additional reporter in French."

Mr. MAZUREAU moved that the Convention adjourn till to-morrow morning at 10 o'clock a. m. The yeas and nays being called for,

Messrs. *Benjamin*, *Boudousquie*, *Briant*, *Brumfield*, *Cènas*, *Chinn*, *Claiborne*, *Garrett*, *Hudspeth*, *Kenner*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mazureau*, *Porter*, *Prescott* of St. Landry, *Pugh*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Soulé*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wadsworth* and *Winchester* voted in the affirmative—28 yeas; and

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Burton*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Eustis*, *Guion*, *Prescott*, of Avoyelles, *Preston*, *Prudhomme*, *Read*, *Saunders*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Wederstrandt*, *Wikoff* and *Winder* voted in the negative—30 nays; consequently the motion was lost.

Mr. BEATTY moved the previous question, the yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Brazeale*, *Brent*, *Carriere*, *Cénas*, *Chambliss*, *Chinn*, *Covillion*, *Downs*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Humble*, *Hynson*, *Kenner*, *Ledoux*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Pugh*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Soulè*, *Splane*, *Wadsworth*, *Wikoff* and *Winchester* voted in the affirmative—35 yeas; and

Messrs. *Boudousquie*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Claiborne*, *Hudspeth*, *King*, *Lewis*, *Mazureau*, *Peets*, *Porter*, *Prudhomme*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Madison, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wederstrandt* and *Winchester* voted in the negative—23 nays; consequently the motion was carried.

Mr. McRAE submitted the following as a substitute for the whole, viz:

Resolved, That the secretary be directed to appoint additional reporters in English and French; which substitute was lost.

Mr. CLAIBORNE moved for the adoption of the amendment offered by him to the substitute of Mr. Downs, providing for an additional French reporter; which motion was lost.

Mr. DOWNS moved for the adoption of the substitute offered by him to Mr. Soule's resolution, and the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Carriere*, *Chambliss*, *Chinn*, *Downs*, *Dunn*, *Garrett*, *Humble*, *McRae*, *Marigny*, *Mayo*, *Porter*, *Prescott* of Avoyelles, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Taylor* of Assumption, *Wadsworth* and *Winder* voted in the affirmative—21 yeas; and

Messrs. *Beatty*, *Benjamin*, *Boudousquiè*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Cenas*, *Claiborne*, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Eustis*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Ledoux*, *Lewis*, *McCallop*, *Mazureau*, *Peets*, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Madison, *Sellers*, *Soulé*, *Stephens*, *Taylor* of St. Landry, *Waddill*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the negative—39 nays; consequently said motion was lost.

Mr. SOULE moved for the adoption of the resolution offered by him; the yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brazeale*, *Briant*, *Brumfield*, *Carriere*, *Cenas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Downs*, *Dunn*, *Eustis*, *Hynson*, *Kenner*, *King*, *Ledoux*, *McCallop*, *Marigny*, *Mayo*, *Mazureau*, *Prescott* of Avoyelles, *Preston*, *Pugh*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Waddill*, *Wadsworth*, *Winchester* and *Winder* voted in the affirmative—39 yeas; and

Messrs. *Brent*, *Burton*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Lewis*, *McRae*, *Peets*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Roselius*, *St. Amand*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wederstandt* and *Wikoff* voted in the negative—22 nays; consequently said motion was carried.

Mr. LEWIS gave notice that he would on to-morrow introduce a resolution to abolish the office of reporter.

Mr. MARIGNY moved that the Convention adjourn till to-morrow, at 10 o'clock, a. m.; the yeas and nays being called for,

Messrs. *Benjamin*, *Boudousquie*, *Briant*, *Carriere*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Eustis*, *Guion*, *Hudspeth*, *Kenner*, *Lewis*, *McCallop*, *Mc-*

Rae, *Marigny*, *Mazureau*, *Peets*, *Porter*, *Prescott* of St. Landry, *Ratliff*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Sellers*, *Soulé*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wadsworth* and *Winchester* voted in the affirmative—34 yeas; and

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Briant*, *Brumfield*, *Burton*, *Chambliss*, *Covillion*, *Downs*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *King*, *Labauve*, *Ledoux*, *Mayo*, *O'Bryan*, *Preseott* of Avoyelles, *Preston*, *Prudhomme*, *Pugh*, *Read*, *Scott* of Feliciana, *Scott* of Madison, *Splane*, *Wederstrandt*, *Wikoff* and *Winder* voted in the negative—29 nays; consequently said motion was carried, and the Convention adjourned till tomorrow, at 10 o'clock, a. m.

Note.—Members absent: Messrs. Aubert, Cade, Derbes, Penn and Voorhies, absent on leave; Messrs. Porche and Trist absent on account of illness, and Messrs. Benjamin, Boudousquié, Brumfield, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Garcia, Grymes, Hudspeth, Labauve, Legendre, Marigny, O'Bryan, Peets, Pugh, Ratliff, Roman, St. Amand, Saunders, Wadsworth, Wikoff and Winchester did not answer to their names at the call of the roll.

Friday, April 18, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stephens, at the request of the president, opened the proceedings with prayer.

Mr. Humble submitted the following resolution, viz:

Resolved, that from and after Monday, the 21st inst., the Convention shall meet at 9 o'clock in the morning, and adjourn at ten minutes before 3 o'clock in the evening.

Mr. Humble moved for a dispensation of the rules; which motion prevailed.

Mr. Lewis moved to amend the resolution by striking out the words "and adjourn at ten minutes before 3 o'clock in the evening," and insert in lieu thereof the following amendment, viz: "and that henceforward the evening sittings be discontinued."

Mr. Sellers moved that the resolution and amendment be laid on the table indefinitely; which motion was lost.

Mr. Conrad of New Orleans, moved for a division, that is, to take the vote first on meeting at 9 o'clock, a. m.

Mr. Brent moved for the previous question; which motion prevailed.

Mr. Lewis moved for the adoption of his amendment, and the yeas and nays being called for, resulted as follows:

Messrs. Benjamin, *Boudousquie*, *Briant*, *Brumfield*, *Burton*, *Cenas*, *Chinn*, *Claiborne*, *Culbertson*, *Downs*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the affirmative—40 yeas; and

Messrs. Beatty, *Bourg*, *Brazeale*, *Brent*, *Carriere*, *Chambliss*, *Conrad* of Orleans, *Covillion*, *Dunn*, *Kenner*, *King*, *O'Bryan*, *Peets*, *Prudhomme*, *Pugh*, *Scott* of Feliciana, *Scott* of Madison, *Sellers* and *Wadsworth* voted in the negative—19 nays; consequently the motion was carried, and the amendment adopted.

Mr. Humble moved for the adoption of the resolution as amended, viz:

Resolved, that from and after Monday, the 21st inst. the Convention shall meet at nine o'clock in the morning, and that henceforward the evening sessions be discontinued.

The yeas and nays being called for,

Messrs. Benjamin, *Boudousquie*, *Briant* *Brumfield*, *Burton*, *Carriere*, *Cénas*, *Chinn*, *Claiborne*, *Culbertson*, *Downs*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wederstrandt*, *Wikoff* and *Winchester* voted in the affirmative—45 yeas; and

Messrs. Beatty, *Bourg*, *Brazeale*, *Brent*, *Chambliss*, *Conrad* of New Orleans, *Covillion*, *Dunn*, *King*, *O'Bryan*, *Pugh*, *Scott* of Feliciana, *Scott* of Madison, *Sellers* and

Wadsworth voted in the negative—15 nays; consequently the motion was carried and the rule adopted.

This being the day fixed to reconsider the vote adopting the rule requiring a greater number of members to vote for the reconsideration than voted in favor of the motion which it proposed to reconsider.

On the motion of Mr. MARIGNY the same was taken up, and the yeas and nays being called for on the motion to reconsider, resulted as follows:

Messrs. Brazeale, Carriere, Claiborne, Covillion, Humble, Ledoux, McRae, Marigny, Mayo, Peets, Porche, Porter, Prescott of Avoyelles, *Ratliff, Read, Soulé, Waddill, Wadsworth* and *Wederstrandt* voted in the affirmative—19 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Bourg, Brent, Briant, Brumfield, Burton, Cènas, Chambliss, Chinn, Conrad of New Orleans, *Culbertson, Downs, Dunn, Garrett, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, Mazureau, O'Bryan, Prescott* of St. Landry, *Prudhomme, Pugh, St. Amand, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Splane, Taylor* of Assumption, *Taylor* of St. Landry, *Wikoff, Winchester* and *Winder* voted in the negative—43 nays; consequently the motion was lost.

Mr. SOULE gave notice that at o'clock m. he will move to reconsider the vote fixing the senatorial apportionment of New Orleans.

ORDER OF THE DAY.

Section first of the majority report on the judiciary:

SEC. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the city of New Orleans, as the legislature may from time to time direct.

The question under consideration at the last adjournment was the motion of Mr. Ratliff to strike out the words "in the city of New Orleans."

The yeas and nays being called for on said motion to strike out:

Messrs. *Beatty, Boudousquie, Bourg, Briant, Chinn, Covillion, Culbertson, Dunn, Guion, Kenner, Labauve, Legendre, Marigny, Porter, Pugh, Ratliff, St. Amand, Saunders, Scott* of Feliciana, *Soulè, Taylor* of Assumption, *Winchester* and *Winder* voted in the affirmative—24 yeas; and

Messrs. *Benjamin, Brazeale, Brent, Brumfield, Burton, Carriere, Cènas, Chambliss, Claiborne, Conrad* of Orleans, *Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, King, Ledoux, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Porche, Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme, Read, Scott* of Baton Rouge, *Scott* of Madison, *Sellers, Splane, Stephens, Taylor* of St. Landry, *Wederstrandt* and *Wikoff* voted in the negative 37 nays; consequently the motion was lost.

Mr. PORTER offered the following amendment, viz:

The judicial power shall be vested in a supreme court, in district courts and in justices of the peace. The legislature shall have the power toestablish probate courts throughout the State, the judges thereof to be elected by the qualified voters of the different parishes—and the legislature shall establish such other courts in the city of New Orleans, as from time to time may be deemed necessary.

Mr. BEATTY moved to amend the amendment of Mr. Porter by striking out the words "the judges thereof to be elected by the qualified voters of the different parishes;" and the yeas and nays being called for,

Messrs. *Beatty, Benjamin, Boudousquie, Bourg, Briant, Cènas, Chinn, Conrad* of Jefferson, *Culbertson, Eustis, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Lewis, Marigny, Mazureau, Prudhomme, Pugh, St. Amand, Soule, Splane, Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth, Winchester* and *Winder* voted in the affirmative—30 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillon, Downs, Dunn, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, O'Bryan, Peets, Porche, Porter, Prescott* of Avoyelles, *Prescott* of St Landry, *Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Waddill, Wederstrandt* and *Wikoff* voted in the negative—32 nays; consequently said motion was lost.

Mr. PORTER then moved for the adoption of his amendment; the yeas and nays being called for,

Messrs. *Chambliss*, *Chinn*, *Covillion*, *Culbertson*, *Dunn*, *McCallop*, *Porter*, *Pugh*, *Ratliff*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soule*, *Taylor* of Assumption, *Waddill* and *Winder* voted in the affirmative—16 yeas; and

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Cenas*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Downs*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Porche*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Roselius*, *St. Amand*, *Scott* of Madison, *Sellers*, *Splane*, *Taylor* of St Landry, *Wadsworth*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the negative—49 nays; consequently said motion was lost.

Mr. SAUNDERS moved to amend said section by inserting after the words "district courts" the words "parish courts with probate jurisdiction."

And the yeas and nays being called for,

Messrs. Beatty, Briant, Chinn, Covillion, Culbertson, Dunn, Garcia, Guion, King, Legendre, McCallop, Marigny, Pugh, Ratliff, Saunders, Scott of Feliciana, Soulé, Taylor of Assumption, Winchester and Winder voted in the affirmative; 20 yeas; and

Messrs. Benjamin, Brazeale, Brumfield, Brent, Burton, Carriere, Cenas, Chambliss, Claiborne, Conrad of Jefferson, Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, Labauve, Ledoux, Lewis, McRae, Mayo, Mazureau, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Madison, Sellers, Splane, Taylor of St. Landry, Waddill, Wadsworth, Wederstrandt and Wikoff voted in the negative—40 nays; consequently said amendment was lost.

Mr. TAYLOR of Assumption, moved to amend, by inserting after the words "district courts," the words "courts of probate."

And the yeas and nays being called for,

Messrs. Bourg, Briant, Carriere, Chambliss, Chinn, Covillion, Culbertson, Dunn, Garcia, Guion, Kenner, King, Labauve, Ledoux, Legendre, McCallop, Marigny, Mazureau, Porter, Pugh, Ratliff, Scott of Feliciana, Soulé, Taylor of Assumption, Winchester and Winder voted in the affirmative—27 yeas; and

Messrs. Beatty, Benjamin, Brazeale, Brent, Brumfield, Burton, Cénas, Claiborne, Conrad of Jefferson, Downs, Eustis, Garrett, Hudspeth, Humble, Hynson, Lewis, McRae, Mayo, O'Bryan, Peets, Porche, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Madison, Sellers, Splane, Taylor of St. Landry, Waddill, Wadsworth, Wederstrandt and Wikoff voted in the negative—35 nays; consequently the motion was lost.

Mr. WADDILL moved for a division, that is, each paragraph of said section be adopted separately.

The question of order being raised,

The PRESIDENT decided the motion to be out of order.

Mr. CULBERTSON appealed from the decision of the chair, which appeal was rejected, and the decision sustained.

On motion ta adopt the section, the yeas and nays being called for,

Messrs. Beatty, Benjamin, Brazeale, Brent, Brumfield, Burton, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Eustis, Garrett, Grymes, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porche, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roselius, St. Amand, Scott of Baton Rouge, Scott of Madison, Sellers, Splane, Taylor of St. Landry, Wadsworth, Wederstrandt, Wikoff, Winchester and Winder voted in the affirmative—51 yeas; and

Messrs. Bourg, Briant, Chinn, Covillion, Dunn, Garcia, Porter, Pugh, Ratliff, Saunders, Scott of Feliciana, Soulé, Taylor of Assumption and Waddill voted in the negative—14 nays; consequently said motion was adopted.

On motion of Mr. SOULE, the senatorial apportionment of the city of New Orleans was taken up, and the yeas and nays being called for on the motion to reconsider said apportionment, resulted as follows:

Messrs. Beatty, Brazeale, Brent, Carriere, Chambliss, Covillion, Culbertson,

Downs, Garcia, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Waddill, Wedertrandt and Wikoff voted in the affirmative—32 yeas; and

Messrs. Benjamin, Boudousquie, Bourg, Briant, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Prudhomme, Pugh, Roselius, St. Amand, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—34 nays; consequently the motion was lost.

On motion, the 2d section was taken up, viz:

Sec. 2. The supreme court shall have appellate jurisdiction only except in cases hereinafter provided, which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars.

Mr. Ratliff moved to amend said section by striking out "five hundred dollars" and inserting "three hundred" in lieu thereof.

Mr. Scott of Feliciana, moved for the previous question.

The yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Carriere, Chambliss, Chinn, Downs, Eustis, Humble, Hynson, Kenner, McCallop, McRae, Marigny, O'Bryan, Peets, Porche, Porter, Prudhomme, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Soulè and Winchester voted in the affirmative—24 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Burton, Conrad of Orleans, Conrad of Jefferson, Covillion, Dunn, Garcia, Guion, Grymes, Hudspeth, King, Labauve, Ledoux, Legendre, Mayo, Prescott of Avoyelles, Prescott of St. Landry, Read, Roselius, St. Amand, Saunders, Splane, Sellers, Taylor of Assumption, Taylor of St. Landry, Waddill and Wederstrandt voted in the negative—30 nays; consequently said motion was lost.

Mr. Brent moved to amend the amendment by striking out all the words after "jurisdiction," viz: "shall extend to all cases where the matter in dispute shall exceed five hundred dollars," with a view of incorporating the principle contained in the 4th section of the minority report.

On motion of Mr. Dunn, the section and amendments were laid on the table, subject to call.

On motion, the 3d section was taken up, viz:

Sec. 3. The supreme court shall be composed of one chief justice and of three associate justices, a majority of whom shall constitute a quorum; each of said judges shall receive a salary of thousand dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of ten years.

Mr. Dunn moved to amend said section by striking out the word "three," and insert in lieu thereof the word "four."

Mr. Porter moved for a division, that is, the Convention first proceed to strike out: the yeas and nays being called for,

Messrs. Briant, Chinn, Conrad of Orleans, Conrad of Jefferson, Dunn, Garcia, Ledoux, Marigny, Porter, Ratliff, Scott of Feliciana and Wadsworth voted in the affirmative—12 yeas; and

Messrs. Beatty, Benjamin, Boudousquié, Brazeale, Brent, Brumfield, Burton, Chambliss, Claiborne, Covillion, Downs, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Legendre, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Read, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Winchester and Winder voted in the negative—43 nays; consequently the motion was lost.

Mr. Read moved to strike out the words "each of said judges shall receive a salary of — thousand dollars annually;" the yeas and nays being called for,

Messrs. Brent, Burton, Carriere, Hynson, McCallop, McRae, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana and Waddill voted in the affirmative—14 yeas; and

Messrs. Beatty, Benjamin, Boudousquié, Brazeale, Briant, Brumfield, Chambliss,

Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, Kenner, King, Ledoux, Legendre, Lewis, Marigny, Mayo, O'Bryan, Peets, Prudhomme, Pugh, Ratliff, Roselius, Saunders, Sellers, Soulé, Splane, Taylor of Assumption, Taylor of St. Landry, Wederstrandt Wikoff and Winchester voted in the negative—41 nays; consequently the motion was lost.

On motion, the Convention adjourned till to-morrow, at 10 o'clock, a. m.

NOTE.—Members absent, *Messrs. Aubert, Cade, Derbes, Penn* and *Voorhies*, absent on leave; *Messrs. Porche* and *Trist*, absent on account of sickness; and *Benjamin, Chinn, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Eustis, Garcia, Grymes, Hudspeth, Labauve, Preston, Ratliff, Roman, Roselius, St. Amand, Saunders, Wadsworth* and *Winchester* did not answer to their names at the call of the roll.

SATURDAY, April 19, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the Gospel, the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

The secretary reported the receipt of the printers for the report of the debates of the 14th instant.

Mr. RATLIFF, chairman of the committee on contingent expenses, submitted a report in relation to the funeral expenses of the lamented Hon. GILBERT LEONARD—and the same was unanimously adopted.

On motion of Mr. MARIGNY, the project of Mr. Chinn concerning duelling, and to be incorporated in the general provisions, was referred to a committee of five members.

The PRESIDENT appointed Messrs. Marigny, St. Amand, Porche, Downs and Garcia members of said committee.

Mr. WADDILL submitted the following resolution, to be made the order of the day for Tuesday next, viz:

No mamber of this Convention shall be eligible to any office created by this constitution, until the expiration of two years after its adoption; the office of governor excepted.

On motion, leave of absence was granted to Messrs. Scott of Madison, and Winder.

ORDER THE OF DAY.

Section third of the majority report on the judiciary.

SEC. 3. The supreme court shall be composed of one chief justice and three associate justices, a majority of whom shall constitute a quorum; each of said judges shall receive a salary of thousand dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of ten years.

Mr. DUNN moved to fill the blank with the words "five thousand."

Mr. LEDOUX moved to fill the blank with the words "seven thousand."

On motion of Mr. SAUNDRS, the paragraph in relation to the salary of the judges was laid on the table, subject to call.

Mr. BRENT moved to amend said section by striking out the word "ten" and insert "eight" in lieu thereof.

Mr. SPLANE moved for a division, that is, first proceed to strike out the word "ten," and the yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, Humble, Ledoux, McRae, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Waddill and Wederstrandt voted in the affirmative—29 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Dunn, Eustis, Garrett, Grymes, Guion, Hudspeth, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Saunders and Splane voted in the negative—22 nays; consequently the motion was carried.

Mr. SPLANE moved to fill the blank with the word "twelve;" and the yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Eustis, Grymes, Guion, King, Labauve, Legendre, Marigny, Mazureau, Splane, Taylor of St. Landry and Wadsworth voted in the affirmative—18 yeas; and

Messrs. Bourg, Brazeale, Brent, Briant,

Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, Dunn, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Mayo, O'Bryan, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Waddill and Wederstrandt voted in the negative—34 nays; consequently said motion was lost.

Mr. BRENT moved to fill the blank with the word "eight;" and the yeas and nays being called for,

Messrs. Beatty, Boudousquié, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Cénas, Chambliss, Chinn, Covillion, Downs, Dunn, Eustis, Grymes, Garrett, Guion, Hudspeth, Hynson, King, Labauve, Ledoux, Lewis, McRae, Mayo, Marigny, Mazureau, Peets, Porche, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Taylor of St. Landry, Waddill, Wadsworth and Wederstrandt voted in the affirmative—47 yeas; and

Messrs. Benjamin, Conrad of Orleans, Humble, Legendre, O'Bryan, Splane and Stephens voted in the negative—7 nays; consequently said motion was carried.

On motion the paragraph in relation to the salary of the judges and laid on the table subject to call, was taken up.

Mr. LEDOUX moved to fill the blank in said paragraph with the word "seven."

Mr. WADDILL moved to amend said section as follows, viz: The chief justice shall receive a salary of —— thousand dollars annually; and each of the associate judges shall receive a salary of —— thousand dollars annually; which amendment was adopted.

Mr. LEDOUX then moved to fill the first blank with the word "seven." The yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Boudousquie*, *Cénas*, *Chinn*, *Conrad* of Orleans, *Eustis*, *Garcia*, *Grymes*, *Guion*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Roselius*, *Soulé*, *Splane*, *Taylor* of St. Landry, *Wadsworth* and *Wederstrandt* voted in the affirmative—22 yeas; and

Messrs. *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Chambliss*, *Claiborne*, *Covillion*, *Downs*, *Dunn*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Porche*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Stephens*, *Waddill* and *Wikoff* voted in the negative—35 nays; consequently said motion was lost.

Mr. MARIGNY then moved to fill the blank with the word "six."

Mr. CONRAD of Orleans moved to fill the blank with "six thousand five hundred."

Mr. RATLIFF, chairman of the committee on contingent expenses, submitted the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be authorized to issue a warrant in favor of Besancon, Ferguson & Co. editors of the Jeffersonian, for two hundred and fifty dollars on account of printing done and to be done for the Convention.

On motion the Convention adjourned till Monday, at 9 o'clock, a. m.

NOTE—Members absent, *Messrs. Aubert*, *Cade*, *Derbes*, *Penn*, *Scott* of Madison, *Voorhies*, and *Winder* absent on leave; *Porche* and *Trist*, absent on account of illness; *Benjamin*, *Conrad* of New Orleans, *Culbertson*, *Eustis*, *Garcia*, *Grymes*, *Guion*, *Kenner*, *McCallop*, *Preston*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Soulé*, *Taylor* of Assumption and *Winchester* did not answer to their names at the call of the roll.

MONDAY, April 21, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

The secretary reported the receipt of the printers for the report of the debates of the 15th inst.

On motion, Mr. Downs was excused from serving on the committee, to whom was referred the notice of Mr. Chinn on duelling—and the president appointed Mr. Lewis in his place.

ORDER OF THE DAY.

Section third of the report of the majority on the judiciary.

SEC. 3. The supreme court shall be composed of one chief justice, and of three

associate justices, a majority of whom shall constitute a quorum; the chief justice shall receive a salary of thousand dollars annually; the associate judges shall receive each a salary of thousand dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of eight years.

The question under consideration at the adjournment, was the motion of Mr. Conrad of Orleans, to fill the first blank with six thousand five hundred dollars; the yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Chinn*, *Conrad* of Orleans, *Culbertson*, *Downs*, *Eustis*, *Guion*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Roman*, *Roselius*, *St. Amand*, *Soule*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wederstrandt* and *Winchester* voted in the affirmative—23 yeas; snd

Messrs. *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Chambliss*, *Claiborne*, *Covillion*, *Dunn*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St Landry, *Preston*, *Prudhomme*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Stephens* and *Waddill* voted in the negative—32 nays; consequently said motion was lost.

Mr. Marigny then moved to fill the blank with six thousand dollars; the yeas and nays being called for, (Mr. Labauve in the chair,)

Messrs. Beatty, Benjamin, Bourg, Briant, Carriere, Chinn, Claiborne, Conrad of Orleans, Culbertson, Downs, Eustis, Garcia, Garrett, Guion, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Soulé, Splane, Taylor of Assumption, Taylor of St. Landry, Wederstrandt and Winchester voted in the affirmative—29 yeas; and

Messrs. Brazeale, Brent, Burton, Chambliss, Covillion, Dunn, Hudspeth, Humble, Hynson, Lewis, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens and Waddill voted in the negative—27 nays; consequently the motion was carried.

Mr. Dunn moved to fill the second blank with six thousand dollars; the yeas and nays being called, (Mr. Labauve in the chair,)

Messrs. Beatty, Benjamin, Chinn, Conrad of Orleans, Culbertson, Downs, Dunn, Eustis, Garcia, Guion, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Soulé, Splane, Taylor of St. Landry, Wederstrandt and Winchester voted in the affirmative—24 yeas; and

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Claiborne, Covillion, Garrett, Hudspeth, Humble, Hynson, Lewis, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption and Waddill voted in the negative—32 nays; consequently said motion was lost.

Mr. Claiborne moved to fill the blank with five thousand five hundred dollars; the yeas and nays being called for, (Mr. Labauve in the chair,)

Messrs. Beatty, Benjamin, Briant, Carriere, Chinn, Claiborne, Conrad of Orleans, Culbertson, Downs, Eustis, Garcia, Garrett, Guion, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Prudhomme, Roman, Roselius, St. Amand, Soule, Splane, Taylor of Assumption, Taylor of St. Landry, Wederstrandt and Winchester voted in the affirmative—29 yeas; and

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Covillion, Dunn, Hudspeth, Humble, Hynson, Lewis, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens and Waddill voted in the negative—27 nays; consequently the motion was adopted.

Mr. Brent gave notice that he will on a future day, move to reconsider the above vote, allotting the salary of the chief justice and associate judges of the supreme court.

Mr. Marigny gave notice that he will,

on a future day, move to reconsider the vote rejecting the allotting seven thousand dollars to the chief justice.

Mr. O'Bryan moved to amend said section by striking out the words, "the said judges shall be appointed by the governor, by and with the advice and consent of the senate," and insert in lieu thereof the words, "shall be elected by the qualified electors of the State."

Mr. Conrad of Orleans, moved to lay the amendment on the table subject to call.

The yeas and nays being called for, (Mr. Labauve in the chair),

Messrs. Beatty, Benjamin, Bourg, Brazeale, Briant, Carriere, Chinn, Claiborne, Conrad of Orleans, Culbertson, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Prescott of St. Landry, Preston, Prudhomme, Roman, Roselius, St. Amand, Scott of Feliciana, Sellers, Soulé, Splane, Taylor of St. Landry and Winchester voted in the affirmative —36 yeas; and

Messrs. Brent, Brumfield, Burton, Chambliss, Covillion, Humble, Hynson, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Read, Saunders, Scott of Baton Rouge, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the negative—20 nays; consequently said motion was carried.

Mr. Peets offered the folllowing amendment, viz:

"The said judges shall be elected by joint ballot of both houses of the general assembly."

Mr. Preston offered the following amendment to be inserted after the words, "the said court shall appoint its own clerks," viz:

"*Provided*, They be not related by blood or marriage to either of the judges."

Mr. Eustis moved to lay Mr. Preston's amendment on the table indefinitely.

The yeas and nays being called for, (Mr. Labauve in the chair),

Messrs. Beatty, Benjamin, Bourg, Burton, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, O'Bryan, Prescott of St. Landry, Prudhomme, Roman, Roselius, St. Amand, Saunders, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the affirmative—40 yeas; and

Messrs. Brent, Culbertson, Humble, Hynson, Mayo; Peets, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Taylor of Assumpton and Waddill voted in the negative—13 nays; consequently said motion was carried.

On motion of Mr. Brent, the 3d section, together with the amendment of Mr. Peets, were laid on the table subject to call.

Mr. Soule submitted an additional section, which was laid on the table subject to call, and ordered to be printed.

Mr. Beatty submitted the following additional section, viz:

Sec. 4. "When the first appointments are made under this constitution, the chief justice shall be appointed for eight years; one of the associate judges for six years; one for four years; and one for two years; and that on the event of the death, resignation or removal of any of said judges before the expiration of the period for which he was appointed, his successor shall only be appointed for the remainder of his term, so that the term of service of no two of said judges shall expire at the same time."

Mr. Beatty moved for the adoption of said section; the yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Brent, Burton, Carriere, Chambliss, Chinn, Conrad of Jefferson, Covillion, Culbertson, Downs, Eustis, Garcia, Garrett, Guion, Hudspeth, Humble, Hynson, King, Labauve, Ledoux, Legendre, Lewis, McRae, Mayo, Mazureau, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt and Wikoff voted in the affirmitive —45 yeas; and

Messrs. Briant, Conrad of Orleans, Marigny, Porter, Prudhomme, Roman, Roselius, St. Amand and Winchester voted in the negative—9 nays; consequently said motion was carried, and the section adopted.

On motion, the fourth section was taken up, viz:

Sec. 4. "The supreme court shall hold its sessions in the city of New Orleans,

from the month of November to the month of June, inclusive. The legislature shall have the power to fix the sessions elsewhere during the rest of the year. Until otherwise provided, the sessions shall be held in New Orleans."

Mr. LEWIS moved to amend said section by striking out the words "in New Orleans," and insert in lieu thereof the words "as heretofore."

Mr. EUSTIS moved for the previous question; the yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Brent*, *Briant*, *Burton*, *Carriere*, *Chambliss*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Covillion*, *Downs*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Prescott* of Avoyelles, *Prudhomme*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Soulè*, *Splane* *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wederstrandt*, *Wikoff* and *Winchester* voted in the affirmative—43 yeas; and

Messrs. *Brazeale*, *Hynson*, *Lewis*, *McRae*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Read* and *Waddill* voted in the negative—10 nays; consequently said motion was carried.

Mr. PRESTON submitted the following substitute, viz:

"That the State shall be divided into four distrtcts. That a judge of the supreme court shall be appointed for and reside in each district. The judge of each district shall, twice a year, hold court in every parish of the district, and try upon the original record, all appeals brought before him from the inferior courts.

If he concurs with the inferior court, the judgment shall be final. If he does not concur in opinion with the inferior court, the case shall be immediately transferred to a session of all the judges of the supreme court, which shall be holden in the city of New Orleans, the first week in January of each year, and shall be continued until all the appeals brought before the court shall be disposed of."

Mr. PORTER moved that the Convention adjourn till to-morrow, at 9 o'clock, a. m.

On a question of order, the PRESIDENT decided the motion to adjourn, in order.

Mr. BEATTY appealed from the decision of the chair, and called for the yeas and nays, which resulted as follows:

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Briant*, *Burton*, *Carriere*, *Chambliss*, *Conrad* of Orleans, *Covillion*, *Downs*, *Eustis*, *Garcia*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lebauve*, *Ledoux*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Prudhomme*, *Preston*, *Read*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wederstrandt* and *Wikoff* voted in the affirmative—43 yeas; and

Messrs. *Beatty*, *Conrad* of Jefferson, *Guion*, *King*, *Legendre*, *Roman*, *Sellers* and *Winchester* voted in the negative—8 nays; consequently the decision of the chair was sustained.

On motion, the Convention adjourned till to-morrow, at 9 o'clock, a. m.

NOTE.—Members absent: Messrs. Aubert, Cade, Derbes, Penn, Scott of Madison, Voorhies and Winder absent on leave; Messrs. Porche and Trist absent on account of illness; Mr. Cénas excused for non-attendance on account of death in his family; Messrs. Benjamin, Boudousquié, Carriere, Claiborne, Conrad of Orleans, Conrad of Jefferson, Downs, Eustis, Garcia, Grymes, Guion, Kenner, King, Labauve, Ledoux, McCallop, Marigny, Mayo, Preston, Pugh, Ratliff, Roselius, St. Amand, Saunders, Sellers, Taylor of Assumption, Wadsworth, Wikoff, Winchester and Winder did not answer to their names at the first call of the roll.

NOTE.—Members absent at the second call: Messrs. Aubert, Cade, Derbes, Penn, Scott of Madison, Voorhies and Winder, absent on leave; Messrs. Porche and Trist absent on account of illness; Mr. Cénas excused for non-attendance on account of death in his family; Messrs. Benjamin, Boudousquié, Carriere, Conrad of Jefferson, Culbertson, Eustis, Garcia, Grymes, Kenner, King, Labauve, McCallop, Marigny, Pugh, Ratliff, Roman, Roselius, St. Amand, Taylor of Assumption, Wadsworth and Wikoff did not answer to their names at the second call of the roll.

TUESDAY, April 22, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

Mr. HUMBLE gave notice that he would on Tuesday next, move to reconsider the resolution depriving the members of the Convention of their mileage.

Mr. HUMBLE gave notice that he would when the general provisions are taken up, move to reconsider the vote removing the seat of government from the city of New Orleans, for the purpose of locating it permanently.

The resolution offered by Mr. WADDILL, on the 19th inst., being made the special order of the day for to-day, was called up, viz :

"No member of this Convention shall be eligible to any office created by this constitution, until the expiration of two years after its adoption ; the office of governor excepted."

Mr. WADDILL moved to amend said resolution by striking out the words "the office of governor excepted," and insert in lieu thereof the following amendment, viz : "except to such offices as may be filled by elections by the people."

Mr. SELLERS moved that the amendment and resolution be laid on the table indefinitely, and the yeas and nays being called for,

Messrs. Aubert, Beatty, Bourg, Brumfield, Burton, Carriere, Chambliss, Chinn, Dunn, Guion, Hudspeth, Humble, King, Labauve, Legendre, Lewis, Mayo, Mazureau, Peets, Prudhomme, Roman, St. Amand, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wederstrandt, Wikoff and Winchester voted in the affirmative—32 yeas ; and

Messrs. Brazeale, Brent, Briant, Covillion, Garrett, Hynson, McRae, O'Bryan, Porter, Prescott of Avoyelles, Prescott of St. Landry, Read, Saunders, Scott of Baton Rouge and Waddill voted in the negative—15 nays ; consequently the motion was carried.

ORDER OF THE DAY.

Section fourth of the majority report on the judiciary.

SEC. 4. "The supreme court shall hold its sessions in the city of New Orleans, from the month of November to the month of June inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held in New Orleans."

The question under consideration at the adjournment, was the motion of Mr. Lewis to strike out the words "in New Orleans," and insert in lieu thereof the words "as heretofore." The yeas and nays being called for on the adoption of said amendment,

Messrs. Brazeale, Brent, Burton, Chambliss, Chinn, Covillion, Dunn, Hudspeth, Humble, Hynson, King, Labauve, Lewis, McRae, Mayo, O'Bryan, Peets. Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Scott of Baton Rouge, Scott of Feliciana, Stephens, Taylor of St. Landry. Wederstrandt and Wikiff voted in the affirmative—28 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Carriere, Downs, Eustis, Garrett, Guion, Legendre, Mazureau, Preston, Roman, St. Amand, Saunders, Sellers, Splane, Taylor of Assumption, Waddill, Wadsworth and Winchester voted in the negative—23 nays; consequently the motion was carried, and the amendment adopted.

Mr. SPLANE gave notice that he would on Thursday next, at 1 o'clock, move to reconsider the above vote.

Mr. MAYO moved for the adoption of the following amendment, to be inserted at the end of the section, viz :

"Appeals from the parishes of Jackson, Union, Morehouse, Caldwell, Ouachita, Catahoula, Franklin, Carroll, Madison, Tensas and Concordia shall, until otherwise provided, be returnable to New Orleans;" and the same was adopted.

Mr. MAYO moved to amend said section by striking out the word "June," and insert in lieu thereof the word "July;" which motion was lost.

Mr. BENJAMIN moved to amend said section by inserting after the words "in the city of New Orleans from the," in the second line, the words "first Monday of," and the third line after the words "to the," to insert the words "end of the;" which amendments were adopted.

Mr. PRESTON moved for the adoption of the substitute offered by him, viz:

"That the State shall be divided into four districts. That a judge of the supreme court shall be appointed and reside in each district. The judge of each district shall, twice a year, hold court in every parish of the district, and try upon the original record, all appeals brought before him from the inferior courts,

If he concur with the inferior court, the judgment shall be final. If he do not concur in opinion with the inferior court, the case shall be immediately transferred to a session of all the judges of the supreme court, which shall be holden in the city of New Orleans the first week in January of each year, and shall be continued until all the appeals brought before the court shall be disposed of."

The yeas and nays being called for, on the adoption of the above substitute,

Messrs. Chambliss, Downs, Humble, McRae, O'Bryan, Peets, Porter, Preston, Read, Scott of Baton Rouge, Sellers and Waddill voted in the affirmative—12 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brent, Briant, Brumfield, Burton, Carriere, Cénas, Chinn, Covillion, Dunn, Garrett, Guion, Hudspeth, Hynson, King, Labauve, Legendre, Lewis, Mayo, Mazureau, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Roman, St. Amand, Saunders, Scott of Feliciana, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the negative—37 nays; consequently said motion was lost.

Mr. O'BRYAN moved to amend said section by striking out in the fifth line the words "during the rest of the year."

The yeas and nays being called for on said amendment,

Messrs. Brazeale, Brent, Brumfield, Burton, Chambliss, Covillion, Hudspeth, Humble, Hynson, Lewis, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Read, Scott of Baton Rouge, Taylor of St. Landry and Waddill voted in the affirmative—22 yeas; and

Messrs. Aubert, Beatty, Bourg, Benjamin, Briant, Carriere, Cénas, Chinn, Downs, Dunn, Garrett, Guion, King, Labauve, Ledoux, Legendre, Mazureau, Prescott of St. Landry, Roman, St. Amand, Saunders, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Wederstrandt, Wikoff and Winchester voted in the negative—29 nays; consequently said motion was lost.

On motion, the section as amended was adopted, viz:

SEC. 4. The supreme court shall hold its sessions in the city of New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have the power to fix the sessions elsewhere during the rest of the year. Until otherwise provided, the sessions shall be held as heretofore.

Appeals from the parishes of Jackson, Morehouse, Caldwell, Catahoula, Franklin, Carroll, Madison, Tensas and Concordia shall, until otherwise provided, be returnable to New Orleans.

On motion, the 3d section was taken up, viz:

SEC. 3. The supreme court shall be composed of one chief justice and of three associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars annually; and the associate justices shall receive each a salary of five thousand five hundred dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of eight years.

Mr. BRENT submitted the following substitute, viz:

"The State shall be divided by the legislature into four districts, numbering them. A judge shall be voted for in each district, by the qualified electors thereof.

"The chief justice shall be elected by the first district."

The yeas and nays being called for on the adoption of the amendment of Mr. Brent,

Messrs. Brent, Brumfield, Burton, Covillion, Chambliss, Humble, Hynson, McCallop, McRae, Mayo, O'Bryan, Porter, Prescott of Avoyelles, Preston, Read, Scott of Baton Rouge, Stephens, Trist Waddill and Wederstrandt voted in the affirmative—20 yeas; and

Messrs. Aubert, Beatty, Benjamin, Briant, Bourg, Brazeale, Carriere, Cénas,

Chinn, Claiborne, Culbertson, Downs, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Peets, Prescott of St. Landry, Prudhomme, Roman, Saunders, Scott of Feliciana, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff and Winchester voted in the negative—40 nays; consequently said amendment was lost.

On motion of Mr. PEETS, the following amendment, offered by him, was laid on the table, subject to call, viz:

"The said judges shall be elected by joint ballot of both houses of the general assembly."

On the motion to adopt the 3d section as amended, viz:

SEC. 3. The supreme court shall be composed of one chief justice and three associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars annually; and the associate justices shall receive each a salary of five thousand five hundred dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Bourg, Benjamin, Briant, Carriere, Cénas, Chinn, Claiborne, Culbertson, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazurea, Prudhomme, Roman, St. Amand, Saunders, Scott of Feliciana, Soulé, Splane, Taylor of Assumption, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the affirmative—35 yeas; and

Messrs. Brazeale, Brent, Burton, Chambliss, Covillion, Dunn, Humble, Hynson, McCallop, McRae, Mayo, O'Bryan, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Sellers, Stephens, Trist and Waddill voted in the negative—23 nays; consequently said motion was carried, and the section was adopted.

On motion, the 5th section was taken up and adopted, viz:

SEC. 5. "The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus* at the instance of persons in actual custody under process, in all cases in which they may have appellate jurisdiction."

On motion, the 8th section was taken up and adopted, viz:

SEC. 8. "In all cases in which the judges shall be equally divided in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinion in writing."

On motion, the 11th section was taken up and adopted, viz:

SEC. 11. "No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction or perform any functions but such as are purely judicial; and no other duties or functions shall ever be attached by law to the office of a judge, but suah as are judicial."

On motion of Mr. KENNER, the vote adopting said section, was reconsidered.

Mr. CONRAD of Orleans, submitted the followlng as a substitute for said section, viz:

"No judge in this State shall hold any other office, or exercise the functions of any other office, than that of judge; or receive any fees or compensation other than his salary, for any duties that may be assigned to him by law."

Mr. GUION offered the following substitute, viz:

"The legislature shall not have power to assign any duties to the judges of the supreme or district courts of this State, except those that are purely judicial."

On motion of Mr. LEWIS, the substitute of Mr. Guion was laid on the table indefinitely.

Mr. DOWNS then offered the following amendment, viz:

"No court, or any judge of any court, appointed under this constitution, shall perform any functions not properly appertaining to the duties of judge."

The yeas and nays being called for on the adoption of said amendment,

Messrs. Beatty, Brent, Carriere, Chambliss, Conrad of Orleans, Covillion, Dunn, Downs, Garcia, Garrett, Humble, King, Labauve, McCallop, Mayo, O'Bryan, Prescott of Avoyelles, Prudhomme, Roman, Saunders, Scott of Feliciana and Taylor of Assumption voted in the affirmative—23 yeas; and

Messrs. Aubert, Benjamin, Bourg, Bri-

ant, Brumfield, Burton, Conrad of Jefferson, Eustis, Guion, Hudspeth, Hynson, Kenner, Legendre, Lewis, McRae, Marigny, Mazureau, Peets, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Sellers, Soulé, Splane, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt and Wikoff voted in the negative—32 nays; consequently said motion was lost.

Mr. CONRAD of Orleans, then moved the adoption of the substitute offerred by him; which motion was lost.

Mr. MAYO moved to amend said section by striking out the word "party;" which motion prevailed.

Mr. TAYLOR of Assumption, moved to amend said section by adding after the word "jurisdiction," in the third line, the words "or receive any fees of office."

Pending the discussion on said motion, the Convention adjourned till to-morrow at 9 o'clock, a. m.

NOTE.—Members absent, Messrs. Cade, Derbes, Penn, Scott of Madison, Voorhies and Winder absent on leave; Messrs. Porche and Trist absent on account of illness; Mr. Cénas excused for non-attendance on account of death in his family; Messrs. Benjamin, Boudousquié, Carriere, Chinn, Claiborne, Conrad of Jefferson, Culbertson, Downs, Eustis, Garcia, Grymes, Guion, Kenner, King, Labauve, Legendre, McCallop, Marigny, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Ratliff, Roman, Roselius, St. Amand, Saunders, Soulé, Taylor of Assumption, Waddill, Wikoff and Winchester did not answer to their names at the first call of the house.

NOTE.—Members absent at the second call, Messrs. Cade, Derbes, Penn, Scott of Madison, Voorhies and Winder absent on leave; Messrs. Porche and Trist absent on account of sickness; Messrs. Benjamin; Boudousquié, Conrad of Jefferson, Culbertson, Eustis, Garcia, Grymes, Guion, Kenner, McCallop, Marigny, Pugh, Ratliff, Roman, Roselius and Winchester did not answer to their names at the second call of the house.

WEDNESDAY, April 23, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. HIGH opened the proceedings by prayer.

The secretary reported the receipt of the printers for the report of the debates of the 16th inst.

On motion, leave of absence was granted to Mr. Downs.

Mr. MARIGNY gave notice that he will, when the general provisions will be under consideration, introduce a section, providing, that the legislature shall have power to extend the rights and privilege of citizens of the State, to such descendants of persons of color born in this State, as the public interest may require.

ORDER OF THE DAY.

Section eleventh of the majority report, as amended, viz:

SEC. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions, but such as are judicial; and no other duties or functions shall ever be attached by law, to the office of a judge, but such as are judicial.

The question under consideration at the adjournment, was the motion of Mr. Taylor of Assumption, to amend by adding after the word "judicial," in the fourth line, the words "or receive any fees of office."

On motion, said amendment was adopted.

Mr. MAYO moved to amend said section, by inserting after the word "functions," in the third line, the words "arise directly from the exercise of judicial functions."

The CHAIR (Mr. Taylor of Assumption in the chair) decided the amendment to be out of order.

Mr. MAYO appealed from the decision of the chair.

On the question being put, the decision was sustained.

Mr. LEWIS then moved the adoption of the section as amended, viz:

SEC. 11. No court, or judge of any court, appointed under this constitution, shall exercise any jurisdiction, or perform any functions but such as are judicial, or receive any fees of office; and no other duties or functions shall ever be attached by law to the office of a judge, but such as are judicial.

The yeas any nays being called for on the adoption of said section,

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Chinn, Dunn, Eustis,

Garrett, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, McCallop, McRae, Mazureau, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulè Stephens, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the affirmative—41 yeas; and

Messrs. Beatty, Guion, Labauve, Marigy, Mayo, Roman, Trist and Waddill voted the negative—8 nays; consequently said motion was carried, and the section was adopted.

On motion, the twelfth section was taken up, viz:

SEC. 12. No court, or judge of any court, shall ever have the power, by any order or judgment, in any suit, process or other proceeding before them, or pending in such court, to order or adjudge any money to be paid by the parties to such suits or proceedings, or make any allowance out of any money or property that may be in actual custody of said court or officers thereof, except for the payment of the legal fees of the ministerial officers of the said court, as allowed and established by law."

Mr. BENJAMIN offered the following as substitute for said section, viz:

"No court, or judge of any court, shall ever have the power to order the payment or allowance of any fee or compensation, to any attorney, *curator ad hoc*, or other similar officer, appointed to represent any minor, absent heir, creditor or other party interested in any cause or proceeding, before such court or judge."

Mr. GUION moved to amend said substitute by inserting after the word "compensation," the words "except such as are allowed by law."

Mr. BEATTY moved to lay the section, the substitute and amendment on the table indefinitely. The yeas and nays being called for, (Mr. Taylor of Assumption in the chair,)

Messrs. Beatty, Briant, Carriere, Chinn, Labauve, Soulé and Trist voted in the affirmative—7 yeas; and

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Roman, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—50 nays; consequently said motion was lost.

With leave of the house, Mr. BENJAMIN withdrew the substitute offered by him.

Mr. LEWIS then offered the following substitute, viz:

"No court, or judge, shall make any allowance by way of fee or compensation in any suit or proceeding, except for the payment of such fees, to ministerial officers, as may be established by law."

Mr. LEWIS moved the adoption of said substitute.

Mr. CHINN moved for the previous question; which motion prevailed.

Mr. CONRAD of Orleans, moved to amend said substitute, by striking out the words "to ministerial officers." The yeas and nays being called for, (Mr. Taylor of Assumption in the chair,)

Messrs. Aubert, Beatty, Carriere, Conrad of Orleans, Conrad of Jefferson, Dunn, Garrett, Guion, King, Labauve, Ledoux, Porter, Scott of Feliciana, Splane and Trist voted in the affirmative—15 yeas; and

Messrs. Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Covillion, Chinn, Eustis, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, Roman, St. Amand, Saunders, Scott of Baton Rouge, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—39 nays; consequently said motion was lost.

Mr. DUNN offered the following amendment, to be inserted after the word "compensation," viz:

"Unless such compensation be allowed by a judgment rendered contradictorily with the parties interested."

Mr. DUNN moved for the adoption of said amendment; which motion was lost.

Mr. LEWIS moved for the adoption of the substitute; the yeas and nays being

called for, (Mr. Taylor of Assumption, in the chair,)

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Chinn, Covillion, Eustis, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, St. Amand, Scott of Baton Rouge, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Wikoff and Winchester voted in the affirmative—36 yeas; and

Messrs. Beatty, Conrad of Orleans, Conrad of Jefferson, Downs, Garrett, Guion, King, Labauve, Ledoux, Mayo, Mazureau, Porter, Roman, Saunders, Scott of Feliciana, Sellers, Splane, Trist and Wadsworth voted in the negative—19 nays; consequently said motion was carried, and the substitute adopted.

On motion, the fourteenth section was taken up, viz:

Sec. 14. There shall be an attorney general for the State, and as many other prosecuting attorneys for the State as may be hereafter found necessary. The said attorneys shall be appointed by the governor, with the advice and approbation of the senate. Their duties shall be determined by law.

Mr. McRae moved to amend said section by striking out the words, "the said attorneys shall be appointed by the governor, by and with the advice and approbation of the senate," and insert in lieu thereof the folfollowing amendment, viz:

"The attorney general shall be elected by the qualified electors of the State at large, and the prosecuting attorneys, by the qualified electors of the several districts."

Mr. Read moved for a division, that is, the Convention first proceed to strike out the words "the said attorneys shall be appointed" &c. which motion prevailed.

The yeas and nays being called for on the motion to strike out:

Messrs. *Brazeale, Brent, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Prescott* of Avoyelles, *Preston, Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens, Trist, Waddill* and *Wederstrandt* voted in the affirmative—23 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Chinn, Conrad* of Orleans, *Conrad* of Jefferson, *Dunn, Eutstis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Prescott* of St. Landry, *Prudhomme, Roman, St. Amand, Saunders, Sellers, Splane, Taylor* of Assumption, *Taylor* of St. Landry, *Wadsworth, Wikoff* and *Winchester* voted in the negative—31 nays; consequently the motion was lost.

On motion, the said 14th section was adopted.

On motion, the 15th section was taken up, viz:

Sec. 15. The State shall be divided into the following judicial districts, in each of which one judge, learned in the law, shall be appointed. Said districts shall remain unchanged until the first day of January, eighteen hundred and fifty-one:

The first district shall be composed of the parishes of Plaquemines, St. Bernard and Orleans.

Second district, of the parishes of St. Charles and Jefferson.

Third district, of the parishes of Ascension, St. James and St. John the Baptiste.

Fourth district, of Assumption, Lafourche Interior and Terrebonne.

Fifth district, of Iberville, West Baton Rouge and Point Coupée.

Sixth district, of East Feliciana and West Feliciana.

Seventh district, of St. Helena, Washington and St. Tammany.

Eighth district, of East Baton Rouge and Livingston.

Ninth district, of Natchitoches and Claiborne.

Tenth district, of Caddo, De Soto and Bossier.

Eleventh district, of Rapides and Avoyelles.

Twelfth district, of Sabine and Calcasieu.

Thirteenth district, of St. Landry and Lafayette.

Fourteenth district, of St. Mary, St. Martin and Vermillion.

Fifteenth district, of Union, Morehouse and Ouachita.

Sixteenth district, of Caldwell, Franklin and Catahoula.

Seventeenth district, of Carroll and Madison.

Eighteenth district, of Tensas and Concordia.

Mr. PORTER moved to amend the first paragraph of said section by striking out the word "appointed" and insert in lieu thereof, the words "elected by joint ballot of both houses of the general assembly." The yeas and nays being called for,

Messrs. *Brazeale, Brent, Burton, Brumfield, Carriere, Chambliss, Covillon, Garrett, Humble, Hynson, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Preston, Prudhomme, Read, Scott* of Baton Rouge, *Stephens, Trist, Waddill* and *Wederstrandt* voted in the affirmative—23 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Chinn, Conrad of New Orleans, *Conrad* of Jefferson, *Dunn, Eustis, Guion, Hudspeth, Kenner, King. Labauve, Ledoux, Legendre, Marigny, Mazureau, Prescott* of St. Landry, *Roman, St. Amand, Saunders, Scott* of Feliciana. *Sellers, Splane, Taylor* of Assumption. *Taylor* of St. Landry, *Wadsworth* and *Wikoff* voted in the negative—30 nays; consequently said motion was lost.

Mr. GARRETT moved to amend said paragraph by striking out the words "said districts shall remain unchanged until the first day of January, eighteen hundred and fifty-one," and insert in lieu thereof the words "said districts may be changed by the legislature"—which motion was lost.

Mr. BEATTY then offered the following as a substitute for the whole section, viz:

The first legislature assembled under this constitution, shall divide the State into not less than fifteen judicial districts, nor more than twenty-four, which shall remain unchanged for six years thereafter, and be subject to reorganization once in every six years only—for each of which district, one judge learned in the law shall be appointed.

Mr. Beatty moved the adoption of the above substitute.

Mr. SOULE moved for the previous question, which motion prevailed.

Mr. GARRETT moved to amend said substitute by striking out the word "ten" and insert the word "six" in lieu thereof, which motion prevailed.

On the motion of Mr. BEATTY for the adoption of the substitute, the yeas and nays being called for, resulted as follows:

Messrs. *Beatty, Benjamin, Bourg, Brent, Briant, Burton, Carriere, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Garrett, Hudspeth, Hynson, Kenner, McCallop, Preston, Prudhomme, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Taylor* of Assumption, *Trist, Waddill, Wadsworth* and *Winchester* voted in the affirmative—26 yeas; and

Messrs. *Aubert, Brazeale, Brumfield, Chambliss, Covillion, Dunn, Eustis, Guion, Humble, Labauve, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Prescott* of St Landry, *Roman, Roselius, St. Amand, Soule, Splane, Stephens, Taylor* of St. Landry, *Wederstrandt* and *Wikoff* voted in the negative—32 nays; consequently said motion was lost.

Mr. PORTER then moved to amend said first paragraph as follows, viz:

The State shall be divided into ten judicial districts.

The yeas and nays being called for on the adoption of said amendment:

Messrs. *Brumfield, Kenner, McCallop, Porter, Stephens, Taylor* of Assumption and *Trist* voted in the affirmative—7 yeas; and

Messrs. *Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Burton, Carriere, Chambliss, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Covillion, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Labauve, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, O'Bryan, Peets, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Soule, Splane, Taylor* of St. Landry, *Waddill, Wadsworth, Wederstrandt, Wikoff* and *Winchester* voted in the negative—51 nays; consequently said amendment was lost.

Mr. LEWIS moved the adoption of the first paragraph as reported, viz:

SEC. 15. The State shall be divided into the following judicial districts, in each of which one judge learned in the law, shall be appointed; said districts shall remain unchanged until the first day of January eighteen hundred and fifty-one.

The yeas and nays being called for on the adoption of said paragraph:

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Brumfield, Chambliss, Claiborne, Conrad of Orleans, *Conrad* of Jefferson, *Covillion, Dunn, Eustis, Guion, Hudspeth, Humble, Hynson, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Prudhomme, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers, Soulé, Splane, Stephens, Waddill, Wadsworth, Wederstrandt, Wikoff* and *Winchester* voted in the affirmative—44 yeas; and

Messrs. *Brent, Burton, Carriere, Garrett, Kenner, King, O'Bryan, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Read, Taylor* of Assumption, *Taylor* of St. Landry, and *Trist* voted in the negative—15 nays; consequently said paragraph was adopted.

Mr. Lewis then moved the adoption of the remainder of said section.

Mr. Taylor of Assumption moved for a division, that is, to adopt the remainder of said section by districts—which motion prevailed.

The first district was then taken up, viz:

The first district shall be composed of the parishes of Plaquemines, St. Bernard and Orleans.

Mr. Wadsworth moved to amend said district by striking out the word "Orleans" and insert in lieu thereof, the words "that part of the parish of Orleans on the right bank of the river."

Mr. Guion moved to reconsider the vote adopting the previous question; the yeas and nays being called for,

Messrs. *Aubert, Beatty, Benjamin, Bourg, Briant, Claiborne, Conrad* Orleans, *Conrad* of Jefferson, *Eustis, Garrett, Guion, Hynson, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott* of St. Landry, *Preston, Prudhomme, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Sellers, Soulé, Taylor* of Assumption, *Trist, Wadsworth* and *Winchester* voted in the affirmative—35 yeas; and

Messrs. *Brazeale, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Hudspeth, Humble, Kenner, King, Labauve, McCallop, O'Bryan, Prescott* of Avoyelles, *Read, Scott* of Feliciana, *Splane, Taylor* of St. Landry, *Waddill, Wederstrandt* and *Wikoff* voted in the negative—23 nays; consequently said motion was carried.

Mr. Wadsworth moved for the adoption of the amendment, and called for the yeas and nays (Mr. Claiborne in the chair:)

Messrs. *Briant, Conrad* of Orleans, *Dunn, Kenner, Legendre, Marigny, Scott* of Feliciana, *Soulé, Stephens, Wadsworth* and *Wederstrandt* voted in the affirmative —11 yeas; and

Messrs. *Aubert, Beatty, Bourg, Brent, Brumfield, Burton, Carriere, Chambliss, Conrad* of Jefferson, *Covillion, Eustis, Guion, Hudspeth, Humble, Hynson, King, Labauve, Ledoux, Lewis, McCallop, McRae, Mayo, Mazureau, O'Bryan, Peets, Porter, Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston, Prudhomme, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Sellers, Splane, Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Waddill, Wikoff* and *Winchester* voted in the negative—45 nays; consequently said amendment was lost.

On motion, said first district was adopted as reported, viz:

The first district shall be composed of the parishes of Plaquemines, St. Bernard and Orleans.

On motion, the Convention adjourned till to-morrow at nine o'clock, a. m.

Note—Members absent—Messrs. Cade, Derbes, Downs, Penn, Scott of Madison, Voorhies and Winder absent on leave; Messrs. Porche and Trist absent on account of sickness; Messrs. Benjamin, Boudousquie, Carriere, Cenas, Chambliss, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Eustis, Garcia, Grymes, Guion, Marigny, Mazureau, Preston, Pugh, Ratliff, Roman, Roselius, St. Amand, Saunders, Soulé, Taylor of Assumption, Taylor of St. Landry, Wadsworth, Wikoff and Winchester did not answer to their names at the first call of the house.

Note—Members absent at the second call of the house—Messrs. Benjamin, Boudousquie, Carriere, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Ledoux, Preston, Pugh, Ratliff, Roselius, St Amand,

Taylor of Assumption, Wadsworth and Winchester.

THURSDAY, April 24, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. STEPHENS, at the request of the President, opened the proceedings with prayer.

Mr. GARRETT gave notice that he will, during the day, move to reconsider the vote adopting the eleventh section.

On motion of Mr. HUMBLE, the vote adopting the fourteenth section, was reconsidered.

Mr. HUMBLE then moved to amend said section by adding after the word "senate," in the fifth line, the words "for the term of two years." Which amendment was adopted.

On motion, the section as amended was adopted, viz:

There shall be an attorney general for the State, and as many other prosecuting attorneys for the State as may hereafter be found necessary.

The said attorneys shall be appointed by the governor, with the advice and approbation of the senate, for the term of two years.

Their duties shall be determined by law.

This being he day fixed for the taking in consideration the reports of the committee of revision, on motion, the report of said committee, on the executive department, was taken up, viz:

ARTICLE THIRD.

The first section, as reported, was adopted, viz:

SEC. 1. "The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years, and together with the lieutenant governor, chosen for the same term, be elected as follows.

The second section was taken up, viz:

SEC. 2. The citizens entitled to vote for representatives, shall vote for a governor and lieutenant governor, at the same time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer created by law, to the secretary of State, who shall deliver them to the speaker of the house of representatives, on the second day of the session of the general assembly then next to be holden. The members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor, shall be declared duly elected; but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor, shall be lieutenant governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor by the joint vote of the members of the general assembly.

The committee recommend the following correction, viz:

Strike out, in the seventh line, the words "created by law;" and the same was adopted.

The section, as corrected, was adopted, viz:

SEC. 2. The citizens entitled to vote for representatives, shall vote for a governor and lieutenant governor, at the same time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer to the secretary of State, who shall deliver them to the speaker of the house of representatives, on the second day of the sessions of the general assembly then next to b eholden; the members of the general assembly shall meet in the house of representatives to examine and count the votes; the person having the greatest number of votes for governor, shall be declared duly elected, but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall be immediately chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor, shall be lieutenant governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant go-

vernor, one of them shall be immediately chosen lieutenant governor by the joint vote of the members of the general assembly.

The third section was taken up and passed without corrections, viz:

Sec. 3. No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, and has not been fifteen years a free white male citizen of the United States, and of this State next preceding his election.

The fourth section was taken up, viz:

Sec. 4. The governor shall enter in the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and his successor shall have taken the oath or affirmation prescribed by this constitution.

On motion of Mr. Beatty, the words "his successor," in the seventh line, was struck out; and the section, as corrected, was adopted, viz:

Sec. 4. The governor shall enter in the discharge of his duties on the fourth Monday of the January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and shall have taken the oath or affirmation prescribed by this constitution.

The fifth section was taken up and adopted, viz:

Sec. 5. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

Section sixth was taken up and adopted, viz:

Sec. 6. No member of Congress or persons holding any office under the United States, or minister of any religious society shall be eligible to the office of governor or lieutenant governor.

Section seventh was taken up and adopted, viz:

Sec. 7. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the power and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

Section eighth was taken up and adopted, viz:

Sec. 8. The lieutenant governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he continued in office.

The nineth section was taken up and adopted, viz:

Sec. 9. The lieutenant governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

The tenth section was taken up and adopted, viz:

Sec. 10. While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be atlowed to the speaker of the house of representatives, and no more.

The eleventh section was taken up and adopted, viz:

Sec. 11. The governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures, after conviction. In cases of treason he may grant reprieves, until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

The twelfth section was taken up and adopted, viz:

Sec. 12. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

The thirteenth section was taken up and adopted, viz:

Sec. 13. He shall be commander in chief of the army and navy of this State and of the militia thereof, except when they shall be called into the service of the United States.

The fourteenth section was taken up and adopted, viz:

Sec. 14. He shall nominate and appoint, with the advice and consent of the senate, all officers whose offices are established by this constitution, and whose appointments are not herein otherwise provided for: *Provided*, however, that the legislature shall have a right to prescribe the mode of appointment to all other offices to be established by law.

The fifteenth section was taken up and adopted, viz:

Sec. 15. The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution.

The committee of revision recommend the following correction, viz: to strike out from the second line the word "up," which correction was adopted, and the section as corrected, was adopted, viz:

Sec. 15. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution.

The sixteenth section was taken up and adopted, viz:

Sec. 16. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

The seventeenth section was taken up, and adopted, viz:

Sec. 17. He shall, from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

The eighteenth section was taken up, viz:

Sec. 18. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such a time as he may think proper, not exceeding four months.

Mr. Read moved to correct said section, by striking out in the seventh line the words "with respect." and insert the word "as," which correction was adopted, and the section as corrected, was adopted, viz:

Sec. 18. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

The nineteenth section was taken up and adopted, viz:

Sec. 19. He shall take care that the laws be faithfully executed.

The twentieth section was taken up, viz:

Sec. 20. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not, he shall return it with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journal, and proceed to reconsider it; if, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been sent to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

Mr. ——— moved to correct said sec-

tion by striking out in the fifth and sixth lines the words "shall have," which motion prevailed.

Mr. BENJANIN moved to strike out in the sixth line the word "who" and insert in lieu thereof the word "which," and in the seventh line to strike out the word "their" and insert the word "its," which motion prevailed, and the section as corrected was adopted, viz:

SEC. 20. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not he shall return it with his objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been sent to him, it shall be a law in like manner as if he had signed it, unless the general assemhly, by adjournment prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

Section twenty-first was taken up and adopted, viz:

SEC. 21. Every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two thirds of both houses.

The twenty-second section was taken up, viz:

SEC. 22. A secretary of state shall be nominated and appointed by the Governor, with the advice and consent of the senate, and commissioned to hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings o the governor, and, when necessary, shal attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

The committee of revision recommend the correction of the first paragraph of said section as follows, viz:

"There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected," which correction was adopted, and the section as corrected was adopted, viz:

SEC. 22. There shall be a secretary o state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary. He shall keep a fair register of the official acts and proceedings of the governor and when necessary, shall attest them. He shall, when required, lay the said register and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

Section twenty-third was taken up and adopted, viz.

SEC. 23. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

Section twenty-fourth was taken up and adopted, viz:

SEC. 24. The militia of this State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

Section twenty-fifth was taken up and adopted, viz:

SEC. 25. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

ARTICLE 4th—JUDICIARY DEPARTMENT.

On motion of Mr. MAYO the 21st section was reconsidered, viz:

SEC. 21. Every order, resolution, or vote, to which the concurrence of both

ouses may be necessary, except on a uestion of adjournment, shall be present- l to the governor, and before it shall take ffect be approved by him, or being dis- pproved, shall be repassed by two-thirds f both houses.

Mr. MAYO moved to amend said section y inserting after the word "of" in the 8th ne the words "the members elected of"; hich motion prevailed, and the section as nended, was adopted, viz:

SEC. 21. Every order, resolution, or te, to which the concurrence of both ouses may be necessary, except on a uestion of adjournment, shall be present- l to the governor, and before it shall take fect be approved by him, or being dis- proved, shall be repassed by two-thirds the members elected, of both houses.

On motion of Mr. PEETS, the vote re- jecting the substitute offered by Mr. Beat- , was reconsidered, and the substitute ta- n up, viz:

The first legislature assembled under is constitution shall divide the State into t less than fifteen judicial districts, nor ore than twenty-four, which shall remain changed for six years thereafter, and be bject to reorganization once in every six ars only; for each of which districts one dge learned in the law shall be appoint- l.

Mr. RATLIFF moved to strike out the ord "fifteen" and insert "twelve;" the as and nays being called for, (Mr. Saun- rs in the chair,)

Messrs. *Beatty*, *Benjamin*, *Chinn*, *Eustis*, enner, *King*, *Labauve*, *Legendre*, *McCal- b*, *McRae*, *Mayo*, *Peets*, *Porter*, *Pres- tt* of Avoyelles, *Prescott* of St. Landry, udhomme, *Ratliff*, *Read*, *Roman*, *St. nand*, *Scott* of Baton Rouge, *Scott* of Fe- iana, *Stephens*, *Taylor* of Assumption, ist, *Waddill* and *Winchester* voted in e affirmative—27 yeas; and

Messrs. *Aubert*, *Bourg*, *Brumfield*, *Bur- n*, *Carriere*, *Cénas*, *Chambliss*, *Clai- rne*, *Covillion*, *Dunn*, *Garrett*, *Guion*, udspeth, *Humble*, *Hynson*, *Ledoux*, *Lew- Marigny*, *O'Bryan*, *Pugh*, *Sellers*, *Tay- r* of St. Landry, *Wederstrandt* and *Wi- ff* voted in the negative—24 nays; con- quently said motion was carried.

On motion of Mr. RATLIFF, the blank as filled with the word "twelve."

Mr. LABAUVE moved to amend said substitute by fixing the maximum of the districts at twenty; he therefore moved to strike out after the word twenty, the word four. The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Aubert, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Chambliss*, *Chinn*, *Eustis*, *Guion*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *McCallop*, *Marigny*, *Peets*, *Porter*, *Prudhomme*, *Pugh*, *Ratliff*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soule*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill* and *Winchester* voted in the affirmative—34 yeas; and

Messrs. *Covillion*, *Dunn*, *Garrett*, *Hudspeth*, *Humble*, *Ledoux*, *Lewis*, *McRae*, *Mayo*, *O'Bryan*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Read*, *Sellers*, *Taylor* of St. Landry, *Wedertrandt* and *Wikoff* voted in the negative—18 nays; consequently said motion was carried.

Mr. O'BRYAN moved to amend said substitute by striking out the word "twenty;" which motion was lost.

Mr. BEATTY moved for the adoption of the substitute as amended, viz:

The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter; The number of districts shall not be less than twelve, nor more than twenty. For each district, one judge learned in the law shall be appointed.

The yeas and nays being called for on the adoption of the above substitute, (Mr. Saunders in the chair,)

Messrs. *Aubert*, *Benjamin*, *Bourg*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Cénas*, *Chambliss*, *Chinn*, *Covillion*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Prescott* of Avoyelles, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Soulé*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Wadsworth*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the affirmative—46 yeas: and

Messrs. *Brazeale*, *Dunn*, *Humble*, *O'Bryan*, *Porter*, *Preston*, *Saunders* and *Waddill* voted in the negative—8 nays;

consequently said motion was carried, and the substitute was adopted.

On motion of Mr. Mayo, the sixteenth section was taken up, and laid on the table indefinitely, viz:

Sec. 16. After the first of January eighteen hundred and fifty-one, the legislature may reorganize the said districts; which shall remain unchanged for ten years thereafter, and be subject to reorganization once in every ten years, provided the number of districts shall never be less than eighteen, nor more than twenty-four.

On motion, the seventeenth section was taken up, viz:

Sec. 17. Whenever a new parish shall be formed out of two or more parishes belonging to different districts, the said new parish shall be attached to one of them.

Mr. Chinn moved that the said section be laid on the table indefinitely; which motion was lost.

On motion, the said seventeenth section was adopted.

On motion, the eighteenth section was taken up, viz:

Sec. 18. Each of said judges shall receive a salary of not less than twenty-five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practiced law therein for the space of five years.

Mr. Ratliff moved to amend said section by striking out in the fourth line the word "thirty," and insert in lieu thereof the word "twenty-six," which motion was lost.

Mr. Read submitted the following as a substitute for the first paragraph, viz:

"The legislature shall provide an adequate compensation for each of said district judges, which shall not be increased or diminished during his term of office."

Mr. Garrett moved to lay the above substitute on the table indefinitely; the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Bourg, Briant, Brumfield, Carriere, Cenas, Chinn, Claiborne, Conrad of Orleans, *Conrad* of Jefferson, *Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mayo, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Stephens, Taylor* of St. Landry, *Trist, Wadsworth* and *Winchester* voted in the affirmative—36 yeas; and

Messrs. Brazeale, Burton, Chambliss, Covillion, Humble, Hynson, McCallop, McRae, O'Bryan, Peets, Porter, Prescott of Avoyelles, *Prescott* of St. Landry, *Preston, Ratliff, Read, Saunders, Scott* of Baton Ruge, *Scott* of Feliciana, *Taylor* of Assumption, *Waddill, Wederstrandt* and *Wikoff* voted in the negative —23 nays; consequently the motion was carried.

Mr. Porter submitted the following amendment, to be inserted at the end of the section, viz:

"Except in such judicial districts as the major part of the parishes of which have been organized since the year 1840, and that the exception only extends to the first apportionment of judges."

On motion of Mr. Winchester said amendment was laid on the table indefinitely.

Mr. Taylor of Assumption, offered the following as a substitute for the first paragraph of said section, and the same was adopted, viz:

"Each of said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, which salary shall never be less than two thousand five hundred dollars annually.

On motion the section as amended was adopted, viz:

Sec. 18. Each of said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, which salary shall never be less than twenty-five hundred dollars. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practised law therein for the space of five years.

On motion the nineteenth section was taken up, viz:

Sec. 19. The judges of said district courts, and of the courts to be established in the cities of New Orleans and Lafayette, shall hold their offices for the term of six years, and shall be appointed by the governor, by and with the advice and consent of the senate; provided, that when the first appointments, made under this constitution, are made, six of said district judges shall

be appointed for the term of two years, six for the term of four years, and six for the term of six years.

Mr. BRENT moved to amend by inserting four years instead of six years, in the third line.

Mr. KENNER moved for a division, that is, strike out first the word "six," which motion prevailed.

Mr. BENJAMIN offered the following as a substitute for all the words coming in the seventh line to the end of the section, viz:

"The judges shall be divided by lot into three classes, as nearly equal as may be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years."

Mr. KENNER moved for the previous question on the whole section, which motion prevailed.

The yeas and nays being called for on the motion of Mr. Brent, to strike out "six," (Mr. Saunders in the chair,)

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Carriere*, *Chambliss*, *Covillion*, *Humble*, *Hynson*, *McRae*, *Mayo*, *O'Bryan*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Soulé*, *Stephens*, *Taylor* of Assumption, *Trist*, *Waddill* and *Wikoff* voted in the affirmative—27 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Bourg*, *Briant*, *Cenas*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *Prudhomme*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Sellers*, *Taylor* of St. Landry, *Wederstraudt*, and *Winchester* voted in the negative—31 nays; consequently the motion was lost.

Mr. BRENT moved to amend by striking out in the fourth line the word "governor," and insert in lieu thereof "qualified electors of each district."

Mr. BRENT moved to reconsider the vote adopting the previous question. The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Eustis, Humble, Hynson, Ledoux, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Ratliff, Read, Scott of Baton Rouge, Sellers, Soulè, Stephens, Trist, Waddill and Wederstrandt voted in the affirmative—27 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Scott of Feliciana, Taylor of Assumption, Taylor of St. Landry, Wikoff and Winchester voted in the negative—32 nays; consequently said motion was lost.

The yeas and nays being called for on the motion of Mr. Brent to strike out the word "governor," (Mr. Saunders in the chair,)

Messrs. Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Ratliff, Read, Scott of Baton Rouge, Stephens, Trist, Waddill and Wederstrandt voted in the affimative—23 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Prescott of St. Landry, Prudhomme, Pugh, Roman, Roselius, St. Amand, Scott of Feliciana, Sellers, Soulé, Taylor of Assumption, Taylor of St. Landry, Wikoff and Winchester voted in the negative—37 nays; consequently said motion was lost.

On motion, Mr. BENJAMIN's amendment was adopted, viz:

On motion, the nineteenth section, as amended was adopted, viz:

SEC. 19. The judges of said district courts, and of the courts to be established in the cities of Orleans and Lafayette, shall hold their offices for the term of six years, and shall be appointed by the governor by and with the advice and consent of the senate; *provided*, that when the first appointments made under this constitution, the judges shall be divided by lot into three classes, as nearly equal as may be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four

years, and of the third class at the end of six years.

On motion of Mr. SOULE, the additional section, submitted by him, was taken up, viz:

The appointing power with respect to judges shall be exercised by the governor, in the manner following, to wit: He shall name and present three competent persons, learned in the law, and having practised at least five years in the courts of the State, for every office to be filled in the judiciary department; and the senate shall make their selection from the three persons thus named and presented, and shall vote *viva voce* and with open doors; *Provided*, no appointment shall be effected unless it meets the concurrence of a majority of all the members composing the senate; and provided the judge at the expiration of whose time shall give occasion to an appointment, be one of the three first presented by the governor to the choice of the senate. After three unsuccessful attempts to make a selection, it shall be the duty of the governor to name and present three other persons, and so on, until a choice be effected.

Mr. KENNER moved to lay on the table, indefinitely the additional section of Mr. Soulé. The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Guion, Hudspeth, Humble, Hynson Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mayo, Mazureau, O'Bryan, Peets, Preston, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott of Feliciana, Stephens, Taylor of Assumption, Taylor of St. Landry and Winchester voted in the affirmative—41 yeas; and

Messrs. Carriere, Covillion, Dunn, Garrett, Lewis, McCallop, McRae, Porter, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Ratliff, Sellers, Soulé, Trist, Waddill, Wederstrandt and Wikoff voted in the negative—18 nays; consequently said motion was carried.

On motion, the Convention adjourned till to-morrow, at 9 o'clock, a. m.

NOTE—Members absent: Messrs. Cade, Derbes, Downs, Penn, Scott of Madison, Voorhies and Winder absent on leave; Mr. Porche on account of sickness; Messrs. Benjamin, Boudousquié, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Eustis, Garcia, Grymes, Guion, Hynson, King, Marigny, Mazureau, Prudhomme, Pugh, Ratliff, Roman, Roselius, St. Amand, Soulé, Taylor of Assumption, Wadsworth and Winchester did not answer to their names at the call of the house.

FRIDAY, April 25, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings with prayer.

Mr. RATLIFF, chairman of the committee on contingent expenses, submitted the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be authorised to issue a warrant in the usual form for the sum of forty-four dollars and twenty-nine cents in favor of James Carpenter, sergeant-at-arms, in remuneration for that sum expended by him for the use of the Convention.

On motion of Mr. BENJAMIN the vote adopting the substitute of Mr. Beatty was reconsidered, and the same taken up, viz:

The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter; the number of districts shall not be less than twelve nor more than twenty. For each district one judge, learned in the law, shall be appointed.

Mr. BENJAMIN moved to amend said substitute by adding at the end of the same the following amendment, viz:

"Except in the districts in which the cities of New Orleans and Lafayette are situated, the legislature may establish as many district courts as the public interest may require;" which amendment was adopted.

On motion the substitute as amended was adopted, viz:

The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter; the number of districts shall not be less than twelve nor more than twenty. For each district one judge, learned in the law,

shall be appointed; except in the districts in which the cities of New Orleans and Lafayette are situated, the legislature may establish as many district courts as the public interest may require.

On motion of Mr Eustis the vote adopting the first section of article fourth was reconsidered and the same taken up, viz:

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and such other courts in the cities of New Orleans and Lafayette as the legislature may from time to time direct.

Mr. Eustis moved to amend said section by striking out the words "and such other courts in the cities of New Orleans and Lafayette as the legislature may from time to time direct;" which amendment was adopted.

On motion the section as amended was adopted, viz:

Sec. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, and in justices of the peace.

ORDER OF THE DAY.

The question under consideration at the adjournment was the following section submitted by Mr. Mayo, viz:

The senate, in acting upon the nomination of the judges made by the governor shall vote *viva voce*, with open doors, and the votes of at least seventeen senators shall be necessary to confirm a nomination.

To which section Mr. Taylor offered the following substitute, viz:

A majority of all the members elected to the senate, shall be required for the confirmation or rejection of officers appointed by the governor, with the advice and consent of the senate, and the senate in deciding thereon shall vote by yeas and nays, and the names of the senators voting for and against the appointments respectively shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

Mr. Kenner moved to amend said substitute by striking out the words "and made public at the end of each session, or before," and insert the following words: and to be published at the discretion of the senate."

Mr. Beatty moved to lay the substitute and amendment on the table, subject to call. The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Cenas, Chinn, Eustis, Garrett, Guion, Kenner, King, Labauve, Legendre, McCallop, Mazureau, Pugh, Roman and Splane voted in the affirmative—19 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Claiborne, Covillion, Culbertson, Dunn, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Marigny, Mayo, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Ratliff, Read, St. Amand, Saunders, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—37 nays; consequently said motion was lost.

The yeas and nays being called for on the amendment of Mr. Kenner to insert "at the discretion of the senate," (Mr. Saunders in the chair,)

Messrs. Aubert, Beatty, Benjamin, Briant, Carriere, Chambliss, Chinn, Claiborne, Eustis, Guion, Kenner, King, Labauve, Legendre, McCallop, Marigny, Mazureau, Pugh, Roman, Trist, Wadsworth and Winchester voted in the affirmative—21 yeas; and

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Cenas, Covillion, Culbertson, Dunn, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Mayo, Porter, Prescott of Avoyelles, Preston, Prudhomme, Ratliff, Read, St. Amand, Scott of Feliciana, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt and Wikoff voted in the negative—33 nays; consequently said motion was lost.

Mr. Taylor of Assumption moved for the adoption of the substitute, and the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Carriere, Chambliss, Covillion, Culbertson, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Ledoux, Lewis, McCallop, McRae, Mayo, O'Bryan, Peets, Porter, Prescott of Avoyelles, Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Feliciana,

Sellers, Splane, Stephens, Taylor of St. Landry, Taylor of Assumption, Trist and Wederstrandt voted in the affirmative—40 yeas; and

Messrs. Aubert, Benjamin, Briant, Burton, Cenas, Chinn, Claiborne, Conrad of Jefferson, Eustis, King, Labauve, Legendre, Marigny, Mazureau, Wadsworth, Waddill, Wikoff and Winchester voted in the negative—18 nays; consequently said motion was carried, and the substitute was adopted.

On motion of Mr. BENJAMIN, the above substitute was referred to the committee of revision, to be classed in the legislative article.

Mr. CLAIBORNE submitted the following additional section, viz:

On the expiration of the term of any judicial officer, whenever the governor shall not have nominated to the senate for the succeeding term, the incumbent in office, any senator may nominate said incumbent, and in such case the senate shall have power to select between the incumbent in office and the person nominated by the governor, or to reject both.

Mr. EUSTIS submitted as a substitute for the above, the following, viz:

On nominations for judicial officers, after the first appointments under this constitution, if a majority of the members elected to the senate shall advise the re-appointment of the incumbent, he shall be re-appointed.

Mr. TAYLOR of Assumption moved to lay the substitute on the table indefinitely; the yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. Brazeale, Brent, Carriere, Chambliss, Covillion, Humble, Hynson, Kenner, Ledoux, Legendre, McCallop, McRae, O'Bryan, Porter, Prescott of Avoyelles, Preston, Prudhomme, Ratliff, Read, Sellers, Splane, Stephens, Taylor of Assumption, Waddill and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad of Orleans, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Labauve, Lewis, Marigny, Mayo, Prescott of St. Landry, Pugh, Roman, St. Amand, Scott of Feliciana, Taylor of St. Landry, Wikoff and Winchester voted in the negative—29 nays; consequently said motion was lost.

Mr. KENNER moved to amend said substitute by inserting after the word "senate" the words "and house of representatives."

Mr. BEATTY moved for the previous question, which motion prevailed.

The yeas and nays being called for on the adoption of the amendment of Mr. Kenner, to insert the words "and house of representatives," (Mr. Saunders in the chair,)

Messrs. Brazeale, Brent, Carriere, Chambliss, Humble, Kenner, McCallop, McRae, Mayo, Porter, Prudhomme, Ratliff, Read, Taylor of Assumption, Trist and Waddill voted in the affirmative—16 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Cenas, Chinn, Claiborne, Conrad of Orleans, Covillion, Dunn, Eustis, Garrett, Guion, Hudspeth, Hynson, King, Labauve, Ledoux, Legendre, Lewis, Marigny, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Pugh, Roman, St. Amand, Scott of Feliciana, Sellers, Soulé, Stephens, Taylor of St. Landry, Wadsworth, Wederstrandt, Wikoff and Winchester voted in the negative—41 nays; consequently said motion was lost.

Mr. KENNER then offered the following amendment, viz:

"It shall be competent for a majority of the members elected to the senate to re-elect the incumbent." Which amendment was rejected.

The yeas and nays being called for on the adoption of the substitute of Mr. Eustis, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Briant, Brumfield, Burton, Cénas, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Taylor of St. Landry, Wikoff and Winchester voted in the affirmative—21 yeas; and

Messrs. Bourg, Brazeale, Brent, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Humble, Hynson, Kenner, Labauve, Ledoux, Legendre, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Feliciana, Sellers, Soulé, Splane,

Stephens, Taylor of Assumption, Trist, Waddill, Wadsworth and Wederstrandt voted in the negative—36 nays; consequently said motion was lost.

The yeas and nays being called for on the adoption of the section of Mr. Claiborne, (Mr. Saunders in the chair,)

Messrs. Aubert, Benjamin, Bourg, Briant, Brumfield, Burton, Cénas, Claiborne, Conrad of Orleans, Dunn, Garrett, Guion, Hudspeth, King, Lewis, Marigny, Mazureau, Pugh, Roman, St. Amand, Scott of Feliciana, Taylor of St. Landry, Wadsworth and Winchester voted in the affirmative —24 yeas; and

Messrs. Brazeale, Brent, Carriere, Chambliss, Chinn, Covillion, Humble, Hynson, Kenner, Labauve, Ledoux, Legendre, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Trist, Waddill, Wederstrandt and Wikoff voted in the negative—32 nays; consequently the motion was lost.

On motion, section twentieth was taken up, viz:

Sec. 20. The said district courts shall have general original jurisdiction in all civil cases when the amount in dispute exceeds fifty dollars. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

Mr. Benjamin moved to amend said section by inserting after the word "dollars" in the third line, the words "exclusive of interest;" and the same was adopted.

On motion, the section as amended was adopted, viz:

Sec. 20. The said district courts shall have general original jurisdistion in all civil cases when the amount in dispute exceeds fifty dollars exclusive of interest. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

The twenty-first section was taken up, viz:

Sec. 21. The legislature shall have power to vest in clerks of court authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus granted shall be specified and determined.

Mr. Ratliff moved to amend said section by striking out, in the third line, the words "and do such acts."

Mr. Kenner moved for the previous question; which motion prevailed.

The yeas and nays being called for on the motion of Mr. Ratliff to strike out the words "and do such acts," (Mr. Saunders in the chair,)

Messrs. Carriere, Covillion, Porter, Ratliff, Scott of Feliciana and Taylor of Assumption voted in the affirmative—6 yeas; and

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cénas, Chambliss, Chinn, Conrad of Orleans, Eustis, Garrett, Guion, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Roman, Roselius, St. Amand, Sellers, Splane, Stephens Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winchester voted in the negative—45 nays; consequently said motion was lost.

On motion, said section was adopted.

Mr. Garrett submitted the following additional section, viz:

"The clerks of the district court shall be elected by the qualified electors in each parish, for the term of four years."

Mr. Mayo offered the following substitute, viz:

"There shall be elected in each parish of the State, by the qualified electors thereof, at the time of the general election for members of the general assembly, a sheriff, coroner, surveyor, and clerk of the district court, and a competent number of notaries public, justices of the peace, and constables, who shall hold their offices for the term of two years, and until their successors are qualified."

On motion, the additional section and substitute were laid on the table, subject to call.

Section twenty-second was taken up, viz:

Sec. 22. The clerks of the several courts shall be removable for breach of good behavior, by the judges thereof, subject in all cases, to an appeal to the supreme court.

On motion, said section was laid on the table, subject to call.

Section twenty-third was taken up, viz:

Sec. 23. The jurisdiction of the justices of the peace shall never exceed, in civil cases, the sum of fifty dollars. They shall be elected by the qualified voters of each parish, for the term of years.

Mr. Garrett moved to fill up the blank in said section, with the word "two," which motion prevailed.

Mr. Brent moved to amend said section by striking out in the second line, the word 'fifty," and insert the words "one hundred." The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Carriere*, *Chambliss*, *Claiborne*, *Conrad* of Orleans, *Covillion*, *Humble*, *Hynson*, *Labauve*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Preston*, *Prudhomme*, *Ratliff*, *Read*, *Roman*, *Roselius*, *St. Amand*, *Splane*, *Taylor* of Assumption, *Waddill* and *Wederstrandt* voted in the affirmative—31 yeas; and

Messrs. *Aubert*, *Cenas*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Kenner*, *King*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Wikoff* and *Winchester* voted in the negative—19 nays; consequently said motion was carried.

On motion of Mr. Labauve, said section was amended by inserting after the word "dollars," in the third line, the words "exclusive of interest."

Mr. Ratliff moved to amend, by inserting in the third line after the words "exclusive of interest," the following amendment, viz:

"Subject to an appeal to the district court in all cases wherein the matter in dispute exceeds twenty-five dollars;" which amendment was adopted.

Mr. Splane moved to amend by striking out the words, "they shall be elected by the qualified voters of each parish." The yeas and nays being called for, (Mr. Saunders in the chair,)

Messrs. *Briant*, *Cenas*, *Claiborne*, *Conrad* of Orleans, *Eustis*, *Labauve*, *Legendre*, *Marigny*, *Mazureau*, *Roman*, *Roselius*, *St. Amand*, *Splane*, *Taylor* of St. Landry and *Winchester* voted in the affirmative—15 yeas; and

Messrs. *Aubert*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Carriere*, *Chambliss*, *Covillion*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prescott* of Avoyelles, *Prescott*, of St. Landry, *Preston*, *Prudhomme*, *Pugh*, *Ratliff*, *Read*, *Saunders*, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wederstrandt* and *Wikoff* voted in the negative—37 nays; consequently said motion was lost.

On motion, the section as amended was adopted, viz:

Sec. 23. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court in all cases wherein the matter in dispute exceeds twenty-five dollars. They shall be elected by the qualified voters of each parish for the term of two years.

Section twenty-four was taken up, viz:

Sec. 24. The judges of the supreme court and district courts, provided for in this constitution, shall be appointed and commissioned as soon as possible after this constitution shall go into effect; and the legislature shall provide for the removal of all cases now pending in the supreme and other courts of the State under the present constitution, to the supreme and district courts, created by this constitution, and to the other courts that may be created by the legislature for the city of New Orleans.

Mr. Garrett moved to amend by striking out the words "and to the other courts that may be created by the legislature for the city of New Orleans;" which motion prevailed.

On motion, the section as amended, was adopted, viz:

Sec. 24. The judges of the supreme court and district courts, provided for in this constitution, shall be appointed and commissioned as soon as possible after this constitution shall go into effect; and the legislature shall provide for the removal of all causes now pending in the supreme or other courts of the State under the present constitution, to the supreme and district courts, created by this constitution.

On motion, the second section was taken up, viz:

Sec. 2. The supreme court shall have appellate jurisdiction only, except in cases hereinafter provided, which jurisdiction shall

extend to all cases where the matter in dispute shall exceed five hundred dollars.

Mr. Lewis moved to amend said section by inserting in the second line after the word "jurisdiction," the words "on questions of law."

And pending the discussion on said motion the Convention adjourned till to-morrow, at 9 o'clock, a. m.

Note—Members absent, *Messrs. Cade, Derbes, Downs, Penn, Scott* of Baton Rouge, *Scott* of Madison, *Voorhies*, and *Winder* absent on leave; Mr. *Porche* absent on account of sickness; and Messrs. *Boudousquie, Brent, Briant, Carriere, Dunn, Eustis, Garcia, Grymes, Guion, Hynson, Prescott* of Avoyelles, *Prudhomme, Ratliff, Roman, Roselius* and *Soulé* did not answer to their names at the first call of the house.

Note—Members absent at second call of the house: Messrs. *Benjamin, Boudousquie, Carriere, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Eustis, Garcia, Grymes, Guion, Prudhomme, Pugh, Ratliff, Roselius, St. Amand, Saunders, Soulé, Taylor* of Assumption, *Wadsworth* and *Winchester*.

Saturday, April 26, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Wiley opened the proceedings with prayer.

On motion leave of absence was granted to Messrs. Read, O'Bryan, Beatty, Hudspeth, Chinn and Waddill.

The secretary reported the receipt of the printers for the report of the debates of the 6th inst.

On motion of Mr. Humble, the vote adopting the 23d section was reconsidered, and said section was taken up—viz:

Sec. 23. The jurisdiction of justices of the peace shall never exceed in civil cases the sum of one hundred dollars exclusive of interest, subject to an appeal to the district court in all cases wherein the matter in dispute shall exceed twenty-five dollars. They shall be elected by the qualified votes of each parish for the term of two years.

Mr. Preston offered as a substitute for the above section, the 10th section of the minority report, viz:

Sec. 10. A suitable number of magistrates shall be chosen in every parish, by the qualified electors thereof, for the term of two years, who shall have jurisdiction of all cases when the amount in controversy, or penalty to be inflicted, does not exceed one hundred dollars, subject to appeal, to be determined by law, and shall perform such other duties as may be provided by law.

Mr. Garrett moved that the substitute be laid on the table indefinitely; the yeas and nays being called for (Mr. Taylor of Assumption in the chair,)

Messrs. *Aubert, Bourg, Brazeale, Brumfield, Chambliss, Claiborne, Conrad* of Orleans, *Dunn, Eustis, Garrett, Guion, Hynson, King, Lewis, Marigny, Mazareau, Peets, Prescott* of Avoyelles, *Prudhomme, Pugh, Roman, Sellers, Stephens, Taylor* of St. Landry, *Wederstrandt*, and *Wikoff* voted in the affirmative—26 yeas: and

Messrs. *Brent, Briant, Burton, Carriere, Covillion, Humble, McCallop, McRae, Mayo, Porter, Preston, Ratliff, Saunders, Scott* of Feliciana, and *Taylor* of Assumption votedin the negative—15 nays; consequently said motion was carried.

Mr. Lewis moved to amend said section by striking out the words, "in all cases wherein the matter in dispute shall exceed twenty-five dollars," and insert in lieu thereof the following words, "in such cases as shall be provided for by law;" which amendment was adopted.

Mr. Lewis moved to amend said section by adding at the end of the same the following amendment, viz: "And shall have such criminal jurisdiction as shall be provided for by law;" which amendment was adopted.

On motion the section as amended was adopted, viz:

Sec. 23. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court, in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

Mr. Claiborne gave notice that he will on a future day more to reconsider the vote adopting after reconsideration the amendment of the seventh section, because he believed the reconsideration to be out of order.

(Mr. TAYLOR of Assumption in the chair.) The question of order raised is a very important one, and the chair thinks it proper to express its opinion on it, although it is not now necessary to decide it formally.

The chair does not concur in the opinion expressed by the delegate from New Orleans, that the rules were made for the protection of absent members, and that they cannot be dispensed with without previous notice.

Rules are made for the government of the house, and that is composed of the members present forming a quorum.

In the opinion of the chair it does not admit of a doubt, that four-fifths of the members present can at any time and without any previous notice, suspend any rule; and that the proceedings had in pursuance of such suspension of a rule, are in all respects regular, and that they cannot at any future time be called in question on that ground. Any thing done with the unanimous assent of the house, as in the instance referred to, necessarily involves a suspension of the rules, and the chair would in consequence decide that there had been in that instance no violation of the rules adopted for its government.

Mr. SELLERS gave notice that he would, on Thursday next, move to reconsider the vote adopting the eighth section of the legislative article.

ORDER OF THE DAY.

Section second of the majority report.

SEC. 2. The supreme court shall have appellate jurisdiction only, except in cases hereinafter provided, which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars.

The question under consideration at the adjournment was the motion of Mr. Lewis to amend said section by inserting after the word "jurisdiction," in the second line, the words "on questions of law."

On motion the order of the day was laid on the table, subject to call.

Mr. RATLIFF, chairman of the committee on contingent expenses, submitted the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be authorized to issue warrants in favor of, viz:

J. Demornell for the sum of two hundred and fifty dollars;

One in favor of Major Galley, commanding New Orleans battalion of artillery, for the sum of one hundred and six dollars and eighty cents;

One in favor of Conrey & Co. for the sum of sixty-seven dollars and fifty cents;

One in favor of Rufus Fernandez, jr. for the sum of four hundred and ninety-six dollars and thirty-seven cents;

One in favor of the wardens of the church of St. Louis, of the city of New Orleans; for the sum of ninety dollars;

One in favor of P. H. Mousseau for the sum of eighty dollars;

One in favor of A. Formes, for the sum twenty-two dollars.

One in favor of Besançon, Ferguson & Co., editors of the Jeffersonian, for the sum of eight dollars.

Mr. EUSTIS moved that the Convention adjourn till Monday next at 9 o'clock, a. m. The yeas and nays being called for (Mr. Taylor of Assumption, in the cair);

Messrs. Benjamin, Briant, Carriere Cenas, Claiborne, Culbertson, Eustis, Garrett, Guion, Humble, King, Lewis, Marigny, Prescott of Avoyelles, *Ratliff, Roman Soulé, Stephens, Taylor* of Assumption *Taylor* of St. Landry, *Wederstrandt* and *Wikoff* voted in the affirmative—22 yeas; and

Messrs. Aubert, Bourg, Brent, Burton, Chambliss, Covillion, Dunn, Hynson, McCallop, Mayo, Peets, Porter, Prescott of St. Landry, *Preston, Pugh, Scott* of Feliciana and *Sellers* voted in the negative—17 nays; consequently said motion was carried, end the Convention adjourned till Monday at 9 o'clock, a. m.

NOTE.—Members abent at the first call of the house: Messrs. *Cade, Chinn, Derbes, Downs, O'Bryan, Penn, Read, Scott* of Baton Ruge, *Scott* of Madison, *Voorhies, Waddill* and *Winder* absent on leave; Mr. *Porche* absent on account of illness; and Messrs. *Benjamin, Boudousquiè, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Eustis, Garcia, Grymes, Guion, Labauve, Ledoux, Legendre, Marigny, Mazureau, Preston, Roman, Roselius, St. Amand, Saunders, Splane, Taylor* of Assumption, *Trist, Wikoff* and *Winchester* did not answer to their names.

NOTE.—Absent at the second call: Messrs. Benjamin, Boudousquie, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Ledoux, Legendre, Marigny, Preston, Roselius, St. Amand, Splane, Trist, Wikoff and Winchester.

NOTE.—Absent at the third call: Messrs. Benjamin, Boudousquie, Cénas, Claiborne, Conrad of New Orleans, Conrad of Jefferson, Garcia, Grymes, Kenner, Labauve, Ledoux, Legendre, Prescott of St. Landry, Roselius, St. Amand, Soulé, Splane, Trist, Wadsworth, Wikoff and Winchester.

MONDAY, April 28, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

The secretary reported the receipt of the printers for the report of the debates of the 16th and 17th instant.

On motion, Messrs. Soulé, Sellers, Prescott of Avoyolles and Taylor of Assumption were excused for non-attendance on account of illness.

ORDER OF THE DAY.

Section second of the majority report on the judiciary.

SEC. 2. The supreme court shall have appellate jurisdiction only, except in cases hereinafter provided, which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars.

Mr. LEWIS moved to amend said section by adding at the end of the same the following amendment, viz:

"The legislature may limit the jurisdiction of the supreme court to questions of law only, in such cases as shall be determined by law."

The yeas and nays being called for, on the adoption of said amendment,

Messrs. Brazeale, Brent, Burton, Carriere, Chambliss, Conrad, Covillion, Guion, Humble, Hynson, Lewis, McRae, Mayo, Peets, Porter, Pugh, Scott of Feliciana and *Taylor* of St. Landry voted in the affirmative—18 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Brumfield, Cénas, Claiborne, Dunn, Eustis, Garrett, Grymes, King, Legendre, McCallop, Marigny, Mazureau, Prudhomme, Ratliff, Roman, Roselius, St. Amand, Scott* of Baton Rouge, *Splane, Stephens, Wedertrandt Wikoff* and *Winder* voted in the negative—27 nays; consequently said motion was lost, and the amendment was rejected.

Mr. LEWIS then offered on behalf of Mr. Taylor of Assumption, the following as substitute to said section, viz:

"The supreme court shall have civil and criminal jurisdiction on appeals or writs of error in such cases as the legislature may direct, which shall be exercised in the manner prescribed by law;" which substitute was rejected."

Mr. MAYO moved to amend said section by striking out in the last line the word "five," and insert in lieu thereof the word "three." The yeas and nays being called for,

Messrs. *Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Prudhomme, Pugh, Ratliff, Scott* of Baton Rouge, *Scott* of Feliciana, *Splane, Stephens, Taylor* of St. Landry, *Wederstrandt, Wikoff* and *Winder* voted in the affirmative——27 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Cénas, Claiborne, Conrad* of Orleans, *Eustis, Grymes, Guion, King, Legendre, Lewis, Marigny, Mazureau, Roman, Roselius* and *St. Amand* voted in the negative—18 nays; consequently said motion was carried.

On motion, the section as amended was adopted, viz:

SEC. 2. The supreme court shall have appellate jurisdiction only except in cases hereinafter provided, which jurisdiction shall extend to all cases where the matter in dispute shall exceed three hundred dollars.

Section twenty-second was taken up and adopted, viz:

SEC. 22. The clerks of the several courts shall be removable for breach of good behavior, by the judges thereof, subject in all cases, to an appeal to the supreme court.

Mr. CONRAD of Orleans gave notice that he will on Wednesday, move to reconsider the vote rejecting the substitute offered by Mr. Claiborne, providing that the executive shall send to the senate the

names of all judges whose term of service shall have expired.

Mr. CLAIBORNE gave notice that he will on Wednesday next, move to reconsider the vote adopting the first section of article fourth.

Mr. MAYO gave notice that he will on Wednesday next, move to reconsider the vote adopting the eleventh and twelfth sections of article fourth.

Mr. PORTER submitted the following additional sections, viz:

SEC. —. Clerks in the district courts in this State, shall be elected by the qualified electors in each parish, for the term of years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

SEC. —. A sheriff shall be elected in each parish by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed; and who shall not be eligible to serve either as principle or deputy for the two succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, and the person so appointed shall continue in office until the next general election.

SEC. —. All other parish officers shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law.

Mr. CONRAD moved that the above sections be laid on the table, and made the special order of the day for Wednesday next, and that they be printed.

Mr. BRENT moved for a division, that is, to take up each section separately, which motion prevailed.

Mr. CONRAD then moved that the first section be laid on the table, and made the special order of the day for Wednesday next, and that the same be printed, which motion was lost.

Mr. HUMBLE moved to fill the blank in the first section with the word "two."

Mr. GARRETT moved to fill the blank in said section with the word "four."

Mr. CENAS moved to fill the blank with the word "six." The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquié, Cenas, Claiborne, Conrad of Orleans, Eustis, Guion, Legendre, Mazureau, Pugh, Roman, Roselius, Splane, Taylor of St. Landry and Wadsworth voted in the affirmative—16 yeas; and

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prudhomme, Ratliff, St. Amantd, Saunders, Scott of Baton Rouge, Scott of Feliciana, Stephens, Wederstrandt, Wikoff and Winder voted in the negative—29 nays; consequently said motion was lost.

Mr. GARRETT then moved to fill the blank with "four."

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquié, Bourg, Cenas, Claiborne, Conrad of Orleans, Dunn, Eustis, Garrett, Guion, King, Lewis, Peets, Prudhomme, Pugh, Roman, Roselius, St. Amand, Saunders, Splane, Taylor of St. Landry, Wadsworth, Wikoff and Winder voted in the affirmative—25 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson, Legendre, McCallop, McRae, Mayo, Mazureau, Porter, Ratliff, Scott of Baton Rouge, Scott of Feliciana, Stephens and Wederstrandt voted in the negative—20 nays; consequently said motion was carried, and the blank filled with the word "four."

The yeas and nays being called for on the motion to adopt the first section as amended, viz:

SEC. —. Clerks of the district courts in this State, shall be elected by the qualified electors in each parish for the term of four years; and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election—resulted as follows:

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Carriere*, *Chambliss*, *Covillon*, *Dunn*, *Garrett*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prudhomme*, *Ratliff*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens*, *Wederstrandt* and *Wikoff* voted in the affirmative—24 yeas; and

Messrs. Aubert, *Benjamin*, *Boudousquie*, *Bourg*, *Cenas*, *Claiborne*, *Conrad* of Or-

leans, *Conrad* of Jefferson, *Eustis*, *Guion*, *King*, *Legendre*, *Lewis*, *Mazureau*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Splane*, *Taylor* of St. Landry, *Wadsworth* and *Winder* voted in the negative—22 nays; consequently said motion was carried, and the section as amended was adopted.

Mr. WADSWORTH then gave notice that he will, on Wednesday next, move to reconsider the vote adopting said section.

Mr. GARRETT submitted the following additional section, and the same was rejected, viz:

"Clerks of courts shall be required to give bond and security in the manner to be determined by law, before entering upon the discharge of their official duties."

The second additional section offered by Mr. PORTER was taken up, viz:

SEC. A sheriff shall be elected in each parish by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed; and who shall not be eligible to serve either as principal or deputy, for the two succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, and the person so appointed shall continue in office until the next general election.

Mr. MAYO moved to amend said section by striking out the words "and who shall not be eligible to serve either as principal or deputy for the two succeeding years."

The yeas and nays being called for,

Messrs. *Aubert*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Chambliss*, *Claiborne*, *Conrad* of Orleans, *Covillion*, *Dunn*, *Eustis*, *Guion*, *Humble*, *Hynson*, *King*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Porter*, *Prudhomme*, *Ratliff*, *Roman*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Stephens*, *Taylor* of St. Landry, *Wederstrandt*, *Wikoff* and *Winder* voted in the affirmative—34 yeas; and

Messrs. Benjamin, *Boudousquie*, *Cènas*, *Conrad* of Jefferson, *Garrett*, *McCallop*, *Mazureau*, *Pugh*, *Roselius*, *Saunders* and *Wadsworth* voted in the negative—11 nays; consequently said motion was carried.

Mr. EUSTIS moved to lay on the table subject to call, the said section; which motion was lost.

Mr. CONRAD of Orleans moved to amend said section, by adding to the same the following proviso, viz:

Provided, That if any sheriff should fail to pay over any moneys of the State collected by him, the parish for which he was elected, shall be responsible for the deficiency.

Mr. BRENT moved that said proviso be laid on the table indefinitely.

And pending the discussion on said motion, the Convention adjourned until tomorrow, at nine o'clock, a. m.

NOTE—Members absent at the first call of the house—Messrs. Beatty, Cade, Chinn, Derbes, Downs, Hudspeth, O'Bryan, Penn, Read, Scott of Madison, Voorhies, Waddill and Winder absent on leave—Messrs. Porche, Prescott of Avoyelles, Soulé, Sellers and Taylor of Assumption, absent on account of illness—and Messrs. Benjamin, Brumfield, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Ledoux, Marigny, Preston, Roselius, St. Amand, Splane, Taylor of St. Landry, Trist, Wadsworth, Wikoff and Winchester did not answer to their names.

NOTE—Members absent at the second call of the house—Messrs. Benjamin, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Ledoux, Preston, Roselius, St. Amand, Splane, Taylor of St. Landry, Trist, Wadsworth, Wikoff and Winchester did not answer to their names at the second call.

TUESDAY, April 29, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WARREN opened the proceedings with prayer.

The secretary reported the receipt of the printers for the report of the debates of the 17th inst.

This being the day fixed to reconsider the vote laying on the table subject to call, the resolution allowing mileage to members,

Mr. HUMBLE moved for the reconsideration; the yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Chambliss*, *Chinn*, *Covillion*, *Culbertson*, *Dunn*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Penn*, *Porter*,

Prescott of St. Landry, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Wederstrandt*, and *Wikoff* voted in the affirmative—29 yeas; and

Messrs. *Aubert*, *Boudousquie*, *Bourg*, *Carriere*, *Eustis*, *Guion*, *Kenner*, *King*, *Legendre*, *Lewis*, *Maznreau*, *Prudhomme*, *Pugh*, *Roman*, *Saunders*, *Winchester* and *Winder* voted in the negative—17 nays; consequently the motion was carried, and the resolution was taken up, viz:

"Resolved, That the committee on congent expenses be instructed to inquire into and ascertain the amount of mileage due to each member of this body, for his traveling to and returning home from the Convention in New Orleans, and direct the payment of the same."

To which resolution Mr. Beatty had offered the following amendment, viz:

"And that the committee report to the Convention."

Mr. Guion moved the adoption of the amendment, which motion was lost.

Mr. Kenner then offered the following amendment, viz:

"Provided that when the member lives farther from New Orleans than from the town of Jackson, but when the member lives nearer to New Orleans than to Jackson no additional mileage shall be allowed."

Mr. Guion moved to lay the whole subject on the table indefinitely; and the yeas and nays being called for,

Messrs. *Aubert*, *Boudousquie*, *Brazeale*, *Brent*, *Briant*, *Carriere*, *Conrad* of New Orleans, *Eustis*, *Guion*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Penn*, *Prudhomme*, *Pugh*, *Roman*, *Wadsworth*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—23 yeas; and

Messrs. *Brumfield*, *Burton*, *Cenas*, *Chambliss*, *Chinn*, *Claiborne*, *Couvillon*, *Culbertson*, *Dunn*, *Humble*, *Hynson*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the negative—30 nays; consequently said motion was lost.

Mr. Ratliff moved to lay the proviso offered by Mr Kenner on the table indefinitely, the yeas and nays being called for

Messrs. *Briant*, *Brumfield*, *Burton*, *Chambliss*, *Chinn*, *Covillion*, *Culbertson*, *Dunn*, *Humble*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill* *Wederstrandt* and *Wikoff* voted in the affirmative—29 yeas; and

Messrs *Aubert*, *Boudousquie*, *Brazeale*, *Brent*, *Carriere*, *Cènas*, *Claiborne*, *Eustis*, *Guion*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mazureau*, *Penn*, *Pugh*, *Roman*, *Wadsworth*, *Winchester* and *Winder* voted in the negative—22 nays; consequently the motion was carried.

Mr. Ratliff then moved for the adoption of the resolution; the yeas and nays being called for,

Messrs. *Brumfield*, *Burton*, *Cènas*, *Chambliss*, *Chinn*, *Covillion*, *Culbertson*, *Dunn*, *Humble*, *McCallop*, *McRae*, *Peets*, *Porter*, *Prescott* of St. Landry, *Ratliff*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Splane*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Waddill* and *Wederstrandt*, voted in the affirmative—25 yeas; and

Messrs, *Aubert*, *Benjamin*, *Boudousquie*, *Brazeale*, *Brent*, *Briant*, *Carriere*, *Claiborne*, *Conrad* of Orleans, *Eustis*, *Garrett*, *Guion*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *Mayo*, *Mazareau*, *Penn*, *Prudhomme*, *Pugh*, *Roman*, *Trist*, *Wadsworth*, *Wikoff*, *Winchester* and *Winder* voted in the negative—29 nays conse. quently the motion was lost.

Mr. Mayo offered the following resolution, viz:

Resolved, That mileage be paid to members who reside further from New Orleans than Jackson, for the additional distance to and from their residence, to New Orleans; and for those who live nearer New Orleans than Jackson, such sum shall be paid them as mileage in addition to what has already been paid to them, as will make the whole mileage to such members, equal to full mileage for going and returning from Jackson to New Orleans.

Mr. Waddill moved to lay said resolution on the table, which motion was lost.

Mr. Mayo moved for the adoption of the resolution, and the yeas and nays being called for,

Messrs. *Brent*, *Brumfield*, *Burton*, *Cènas*, *Chambliss*, *Chinn*, *Covillion*, *Culbert-*

son, Dunn, Humble, Garrett, Hynson, Lewis, McCallop, McRae, Marigny, Mayo, Peets. Porter, Prescott of St. Landry, *Ratliff, Read, Saunders, Scott* of Feliciana, *Splane, Stephens, Taylor* of St. Landry, *Trist, Voorhies, Wederstrandt* and *Wikoff* voted in the affirmative—31 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Brazeale, Carriere, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Eustis, Guion, Kenner, King, Labauve, Legendre, Mazureau, Prudhomme, Pugh, Roman, Scott* of Baton Rouge, *Waddill, Wadsworth* and *Winder* voted in the negative—22 nays; consequently said motion was carried, and the resolution was adopted.

Mr. MARIGNY gave notice that he will incorporate in the general provisions, an additional section, providing that the secretary of the senate and the clerk of the house of representatives shall speak the French and English languages.

ORDER OF THE DAY.

The following section, offered by Mr. Porter, viz:

SEC. 2. A sheriff shall be elected in each parish, by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed; should a vacancy occur subsequent to an election, it shall be filled by the governor, and the person so appointed shall continue in office until his successor be elected and qualified.

To which section, Mr. CONRAD of Orleans had offered the following proviso, viz:

"*Provided*, That if any sheriff should fail to pay over any moneys of the State collected by him, the parish for which he was elected shall be responsible for the deficiency."

Mr. CONRAD of Orleans, moved for the adoption of the proviso; the yeas and nays being called for,

Messrs. *Aubert, Bourg, Conrad* of Orleans, *Conrad* of Jefferson, *Legendre, Mazureau, Pugh, Voorhies* and *Wadsworth* voted in the affirmative—9 yeas; and

Messrs. *Benjamin, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Cénas, Chambliss, Chinn, Covillion, Dunn, Eustis, Garrett, Humble, Hynson, Kenner, King, Labauve, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott* of St. Landry, *Prudhomme, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Splane, Stephens, Taylor* of St. Landry, *Trist, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the negative—41 nays; consequently said motion was lost.

Mr. PORTER then moved for the adoption of the section; the yeas and nays being called for,

Messrs. *Aubert, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Guion, Humble, Hynson, Kenner, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott* of St Landry, *Prudhomme, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens, Trist, Voorhies, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—37 yeas; and

Messrs. *Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Eustis, King, Labauve, Legendre, Mazureau, Pugh, Roman, Splane, Taylor* of St. Landry and *Wadsworth* voted in the negative—18 nays; consequently said motion was carried.

Section third, offered by Mr. Porter, was taken up, viz:

SEC. 3. All parish officers not otherwise provided for by this constitution, shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law.

Mr. LEWIS moved to amend said section by striking out the words "elected by the qualified electors of the different parishes," and insert in lieu thereof the word "appointed;" which amendment was lost.

Mr. CENAS moved to lay the section and amendment on the table, subject to call; which motion was lost.

Mr. PORTER then moved for the adoption of the section; and the yeas and nays being called for,

Messrs. *Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott* of St. Landry, *Prudhomme, Ratliff, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Stephens, Trist, Voorhies, Waddill, Wederstrandt* and *Wikoff* voted the affirmative—31 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Cènas, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Eustis,*

Guion, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Splane, Taylor of St. Landry, *Wadsworth, Winchester* and *Winder* voted in the negative—25 nays; consequently said motion was carried, and the section was adopted.

On motion, the Convention took up article sixth.

ARTICLE SIX—GENERAL PROVISIONS.

SEC. 1. Members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of this State. So help me God!"

On motion of Mr. LEWIS, said article was laid on the table subject to call.

Section second was taken up and adopted, viz:

SEC. 2. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

Section third was taken up and adopted, viz:

SEC. 3. Every person shall be forever disqualified from serving as governor, senator or representative, and from holding any other office of trust or profit in this State, who shall have been convicted of having given, or offered any bribe to procure his election or appointment.

Section fourth was taken up and adopted, viz:

SEC. 4. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall pe supported by laws regulating elections, and prohibiting under adequate penalties, all undue influence thereon, from power, bribery, tumult or other improper practices.

Section fifth was taken up and adopted, viz:

SEC. 5. No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money for the support of an army be made for a longer term than one year. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

Section sixth was then taken up and adopted, viz:

SEC. 6. It shall be the duty of the General Assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

Section seventh was taken up, viz:

SEC. 7. All civil officers for the State at large shall reside within the State, and all district or parish officers within their respective districts or parishes, and shall keep their respective offices at such places therein as may be required by law. And no person shall be elected or appointed to any district or parish office who shall not have resided in such district or parish long enough before such election, or appointment, to have acquired the right of voting for representatives to the general assembly, in such district or parish.

Mr. EUSTIS moved to amend said section by striking out all of the last paragraph commencing at the word "and" in the fifth line.

Mr. CONRAD of Orleans moved to amend said amendment by striking out in the sixth line the words "district or." The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Guion, Kenner, King, Legendre, Marigny, Mazureau, Roman, Saunders, Wadsworth and Winchester voted in the affirmative—20 yeas; and

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Garrett, Humble, Hynson, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder, voted in the negative—36 nays; consequently said motion was lost.

Mr. KENNER moved to amend said section by inserting after the word "district" in the seventh line, the words "next adjoining or contiguous." The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Dunn, Eustis, Garrett, Guion, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Pugh, Roman, Saunders, Wadsworth and Winchester voted in the affirmative—24 yeas; and

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Humble, Hynson; Lewis, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—33 nays; consequently said motion was lost.

Mr. LEWIS then moved for the adoption of the section. The yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Garrett, Humble, Hynson, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the affirmative—37 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Dunn, Eustis, Guion, Kenner, King, Legendre, Marigny, Mazureau, Roman, Wadsworth and Winchester voted in the negative—20 nays; consequently said motion was carried, and the section was adopted, as follows, viz:

SEC. 7. All civil officers for the State at large shall reside within the State, and all district or parish officers within their respective districts or parishes, and shall keep their respective offices at such places therein as may be required by law; and no personshall be elected or appointed to any district or parish office, who shall not have resided in such district or parish long enough before such election or appointment, to have acquired the right of voting for representatives to the general assembly in such district or parish.

Section eighth was taken up, viz:

SEC. 8. The legislature shall determine the duration of the several public offices, when such duration shall not have been fixed by this constitution; *Provided*, that such time shall never exceed four years, except notaries public, whose time of office may be extended to seven years; and all civil officers, except the governor and judges of the superior and inferior courts, shall be removable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

Mr. LEWIS moved to amend said section by striking out the words "except notaries public, whose time of office may be extended to seven years;" which motion prevailed.

On motion the first paragraph of said section was adopted, viz:

The legislature shall determine the duration of the several public offices, where such duration shall have been fixed by this constitution.

Mr. WADSWORTH moved to amend the second paragraph by striking out the words "provided that such time shall never exceed four years." The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Briant, Cénas, Chambliss, Conrad of Orleans, Conrad of Jefferson, Claiborne, Culbertson, Eustis, Garrett, Guion, Kenner, Labauve, Legendre, Marigny, Mayo, Mazureau, Prudhomme, Pugh, Roman, Saunders, Taylor of St. Landry, Trist, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—29 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Covillion, Dunn, Humble, Hynson, King, Lewis, McCallop, McRae, Peets, Porter, Prescott of St. Landry, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Voorhies, Waddill and Wederstrandt voted in the negative—25 nays; consequently said motion was carried.

On the motion to adopt the section as amended,

Messrs. Aubert, Boudousquie, Bourg, Briant, Cénas, Claiborne, Conrad of Or-

leans, Conrad of Jefferson, Eustis, Garrett, Guion, Kenner, King, Labauve, Legendre, Marigny, Mayo, Mazureau, Prudhomme, Roman, Saunders, Taylor of St. Landry, Trist, Wadsworth, Winchester, Winder voted in the affirmative—26 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Humble, Hynson, Lewis, McCallop, McRae, Peets, Porter, Prescott of St. Landry, Pugh, Ratliff, Read, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Wikoff voted in the negative—27 nays. The president being called upon to vote, voted in the negative; consequently said motion was lost, and the section as amended was rejected.

On motion, the Convention adjourned till to-morrow at 9 o'clock, a. m.

NOTE.—Members absent at the first call: Messrs. Beatty, Cade, Derbes, Downs, Hudspeth, O'Bryan, Penn, Prescott of Avoyelles, Read, Scott of Madison, Absent on leave. Messrs. Porche, Soulé, Sellers and Taylor of Assumption, absent on account of illness. Messrs. Benjamin, Brumfield, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Ledoux, Legendre, Marigny, Mayo, Mazureau, Porter, Preston, Prudhomme, Pugh, Ratliff, Roman, Roselius, St. Amand, Saunders, Splane, Taylor of St. Landry, Trist, Wadsworth, Wikoff and Winchester did not answer to their names.

NOTE—Members absent at second call of the house: Messrs. Benjamin, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Kenner, Labauve, Ledoux, Legendre, Marigny, Mazureau, Preston, Roselius, St. Amand and Trist.

MONDAY, April 30, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the honorable Mr. STEPHENS, opened the proceedings with prayer.

On motion leave of absence was granted to Messrs. Scott of Feliciana and Penn.

Mr. BRENT having voted in the majority moved to reconsider the vote rejecting the eighth section, which motion prevailed, and said section was taken up, viz:

SEC. 8. The legislature shall determine the duration of the several public offices, when such duration shall not have been fixed by this Constitution; Provided that such time shall never exceed four years except notaries public, whose time of office may be extended to seven years; and all civil officers, except the governor and judges of the supreme and district courts, shall be removable by an address of a majority of the members of both houses, except those, the removal of whom, has been otherwise provided for by this Constitution.

Mr. WADSWORTH moved to amend said section by striking out in the fourth line, the words, "provided that such duration shall never exceed four years." The yeas and nays being called for

Messrs. *Aubert, Benjamin, Boudousquié, Bourg, Briant, Claiborne, Conrad* of Orleans, *Eustis, Guion, Kenner, King, Labauve, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Wadsworth, Winchester* and *Winder* voted in the affirmative—22 yeas, and

Messrs. *Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Culbertson, Dunn, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Preston, Ratliff, Read, Scott* of Baton Rouge, *Stephens, Taylor* of St. Landry, *Trist, Voorhies, Waddill, Wederstrandt* and *Wikoff* voted in the negative—28 nays; consequently said motion was lost.

Mr. MAYO then moved to amend said section, by striking out, in the fifth and sixth lines the words, "except notaries public, whose time of office may be extended to seven years." The yeas and nays being called for,

Messrs. *Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Dunn, Guion, Humble, Hynson, King, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Preston, Ratliff, Read, Scott* of Baton Rouge, *Stephens, Taylor* of St. Landry, *Voorhies, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—30 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Briant, Claiborne, Conrad* of Orleans, *Culbertson, Eustis, Kenner, Labauve, Legendre, Marigny, Mazureau, Prudhomme, Pugh, Roman, St. Amand, Trist* and *Winchester* voted in the negative—20 nays; consequently said motion was carried.

Mr. MAYO then moved for the adoption of the section as amended, viz:

SEC. 8. The legislature shall determine the duration of the several public officers, when such duration shall not have been fixed by this constitution: provided that such time shall never exceed four years, and all the civil officers except the governor and judges of the supreme and district courts, shall be removable by an address of the members of both houses, except those the removal of whom has been otherwise provided for by this Convention.

The yeas and nays being called for,

Messrs. *Bourg, Brazeale, Brent, Brumfield, Burton, Chambliss, Claiborne, Covillion, Culbertson, Dunn, Guion, Humble, Hynson, Kenner, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Preston, Prudhomme, Pugh, Ratliff, Read, Scott* of Baton Rouge, *Stephens, Taylor* of St. Landry, *Trist, Voorhies, Waddill Wederstrandt, Wikoff,* and *Winder* voted in the affirmative—36 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Briant, Conrad* of Orleans, *Eustis, King, Legendre, Marigny, Mauzreau, Roman, St. Amand* and *Winchester* voted in the negative—13 nays, consequently said motion was carried and the section was adopted.

This being the day fixed for the reconsideration of the vote adopting the first section of the article on the judiciary department, on motion the same was laid on the table subject to call.

This being the day fixed to reconsider the vote adopting the 11th and 12th sections on the judiciary, the same was laid on the table subject to call.

This being the day fixed to reconsider the vote rejecting the substitute offered by Mr. Eustis to Mr. Claiborne, the same was laid on the table subject to call.

This being the day fixed to reconsider the vote adopting the additional section offered by Mr. Porter, relative to clerks of courts, the same was laid on the table subject to call.

Communication of Mr. Marigny.

A few days ago I laid apon the desk a section to be inserted under the head of general provisions. The object of the section was to empower the legislature to extend the right of citizenship to persons of colored origin, whenever required by the public interest.

But public opion being against the measure, and many of the members of the Convention who seemed to approve of it, having since expressed themselves against it, I am now satisfied that it would be rejected.

I believe it is my duty to withdraw it. I trust that the members of the Convention of the State at large will do me the justice to believe that my motives were pure, I thought that it was proper to grant to the legislature a power that it was not likely would be abused, and the exercise of which might, under certain circumstances, redound to the benefit of the State.

ORDER OF THE DAY.

GENERAL PROVISIONS.

SEC. 9. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under this State, under the exceptions contained in this constitution.

Mr. GUION moved for the rejection of said section; the yeas and nays being called for,

Messrs. *Aubert, Claiborne, Conrad* of Orleans, *Guion, King, Legendre, Trist* and *Voorhies* voted in the affirmative—8 yeas; and

Messrs. *Benjamin, Bourg, Brent, Brazeale, Briant, Brumfield, Burton, Carriere, Chambliss, Covillion, Culbertson, Dunn, Garrett, Humble, Hynson, Kenner, Labauve, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott* of St. Landry, *Preston, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott* of Baton Rouge, *Stephens, Taylor* of St. Landry, *Waddill, Wedestrandt, Wikoff Winchester* and *Winder* voted in the negative—40 nays; consequently said motion was lost, and the section was adopted.

Section tenth was taken up and adopted, viz:

SEC. 10. It shall be the duty of the general assembly to regulate, by law, in what cases, and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

Section eleventh was taken up and adopted, viz:

SEC. 11. Returns of all elections for mem-

bers of the general assembly shall be made to the secretary of State, for the time being.

Section twelfth was taken up, viz:

Sec. 12. The legislature shall point out the manner in which a person coming into the country shall declare his residence.

Mr. Brent moved for the rejection of said section; the yeas and nays being called for,

Messrs. *Brazeale, Brent, Burton, Brumfield, Carriere, Humble, Hynson, King, McRae, Mayo, Porter, Prescott* of St. Landry, *Preston, Read, Scott* of Baton Rouge, *Stephens, Trist, Waddill* and *Wederstrandt* voted in the affirmative—18 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Briant, Cenas, Chambliss, Claiborne, Conrad* of Orleans, *Covillion, Culbertson, Dunn, Garrett, Guion, Kenner, Labauve, Legendre, Lewis, McCallop, Marigny Mazureau, Prudhomme, Pugh, Ratliff, Roman, St. Amand, Taylor* of St. Landry, *Wadsworth, Wikoff, Winchester* and *Winder* voted in the negative—31 nays; consequently said motion was lost, and the section was adopted.

Section thirteenth was then taken up, viz:

Sec. 13. In all elections by the people, the vote shall be by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce.*

Mr. Preston moved to amend said section, by striking out in the second line, the words "by ballot," and inserting the words "*viva voce.*" The yeas and nays being called for,

Messrs. Garrett, Humble, McRae, Prescott of St. Landry, Preston, Ratliff, Read, Taylor of St. Landry, Wederstrandt, Wikoff and Winchester voted in the affirmative 11 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Bourg, Brazeale, Brent, Bryant, Brumfield, Burton, Carriere, Cenas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Culbertson, Dunn, Guion, Hynson, Kenner, King, LaBuave, Legendre, Lewis, McCallop, Marigny, Mayo, Mazureau, Porter, Prudhomme, Pugh, Roman, St. Amand, Scott of Baton Rouge, Stephens, Voorhies, Waddill, Wadsworth, and Winder, voted in the negative—40 nays; consequently said motion was lost.

Mr. Chinn moved for the previous question, which motion prevailed.

On motion, the thirteenth section was adopted, viz:

Sec. 13. In all elections by the people, the vote shall be by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce.*

Section fourteenth was taken up and adopted, viz:

Sec. 14. No member of congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or any foreign power, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of trust or profit under the same.

Section fifteenth was taken up and adopted, viz:

Sec. 15. All laws that may be passed by the legislature, and the public records of this State, and the judicial and legislative written proceedings of the same, shall be promulgated, preserved, and conducted in the language in which the constitution of the United States is written.

Section sixteenth was taken up and adopted, viz:

Sec. 16. The general assembly shall direct by law, how persons who are now, or may hereafter become securities for public officers, may be relieved or discharged on account of such securityship.

Section seventeenth was taken up and adopted, viz:

Sec. 17. No power of suspending the laws of this State shall be exercised, unless by the legislature or its authority.

Mr. Marigny called up the additional section submitted by him, viz:

Sec. 18. The secretary of the senate, and the clerk of the house of representatives, shall possess the French and English languages; and any member of the general assembly may address either house in the French or English language.

Mr. Marigny moved for the adoption of said section. The yeas and nays being called for,

Messrs. *Aubert, Benjamin, Boudousquie, Bourg, Briant, Carriere, Conrad* of Orleans *Covillion, Kenner, King, Labauve, Legendre, McCallop, Marigny, Mazureau, Prescott* of St. Landry, *Prudhomme, Pugh, Ro-*

man, Scott of Baton Rouge, *Trist, Voorhies, Waddill, Wadsworth, Wederstrandt,* and *Winchester* voted the affirmative—26 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Dunn, Garrett Guion, Humble, Hynson, Lewis, McRae, Mayo, Porter, Preston, Ratliff, Read, Stephens, Taylor* of St. Landry, and *Wikoff* voted in the negative; 21 nays, consequently said motion was carried and the section was adopted.

Section nineteenth was taken up, viz:

Sec. 19. In all criminal prosecutions, the accused shall have the right of being heard by himself or counsel, of demanding the nature and cause of the accusation against him, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor throughout the State, and prosecution by indictment or information; a speedy public trial, by an impartial jury of the vicinage, nor shall he be compelled to give evidence against himself.

Mr. Preston moved to amend said section, by striking out in the sixth line the words ' throughout the State." The yeas and nays were called for,

Messrs. *Bourg, Brent, Briant, Brumfield, Cènas, Chinn, Conrad* of Orleans, *Conrad* of Jefferson, *Covillion, Garrett, Humble, Hynson, Kenner, King, Labauve, Legendre, Mayo, Mazureau, Peets, Porter, Prescott* of St. Landry, *Preston, Prudhomme, Pugh, Ratliff, Read, Roman, Scott* of Baton Rouge, *Stephens, Taylor* of St. Landry, *Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Wikoff, Winchester,* and *Winder* voted in the affirmative—38 yeas; and

Messrs. *Aubert, Benjamin, Brazeale, Burton, Chambliss, Dunn, Guion, Lewis, McCallop, McRae, Marigny* and *Splane* voted in the negative—12 nays; consequently said motion was carried.

On motion, the section as amended was adopted, viz:

In all criminal prosecutions, the accused shall have the right of being heard, by himself or counsel; of demanding the nature and cause of the accusation against him; of meeting the witnesses face to face; of having compulsory process for obtaining witnesses in his favor, and prosecution by indictment or information; a speedy and public trial by an impartial jury of the vicinage, nor shall he be compelled to give evidence against himself.

Section twentieth was taken up and adopted, viz:

Sec. 20. All prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident, or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

Section twenty-first was then taken up, viz:

Sec. 21. No *ex post facto* law, nor any law impairing the obligations of contracts, shall be passed.

Mr. Conrad of New Orleans, moved to amend said section, by inserting the words "or vested rights be divested."

Mr. Benjamin moved to amend the amendment, by adding the words "unless for purposes of public utility, and for adequate compensation previously made"—which amendment was accepted by Mr. Conrad, and the amendment, as amended, was adopted.

On motion the section as amended was adopted, viz:

No *ex post facto* law, nor any law impairing the obligations of contracts, shall be passed, nor vested rights be divested, unless for purposes of public utility, and for adequate compensation, previously made.

Section twenty-second was taken up and adopted, viz:

Sec. 22. Printing presses shall be free to every person who may undertake to examine the proceedings of the legislature, or any branch of the government, and no law shall ever be made to restrain the right thereof. The free communication of thouhts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty.

Section twenty-third was taken up and adopted, viz:

Sec. 23. Emigration from the State shall not be prohibited.

Section twenty-fourth was taken up, viz:

Sec. 24. The first general assemby to be elected under this constitution, shall determine upon the place where the seat of

government of the State shall be pemanently located, from and after the first day of January, in the year one thousand eight hundred and fifty-one.

Mr. MARIGNY moved for the adoption of said section; the yeas and nays being called for,

Messrs. Benjamin, Boudousquié, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Guion, King, Legendre, Marigny, Mazureau, Preston. Prudhomme, Roman, St. Amand, Soulé, Splane, Voorhies, Wadsworth and Winchester voted in the affirmative—21 yeas; and

Messrs. Aubert, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Chinn, Covillion, Dunn, Garrett, Humble, Kenner, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Pugh, Ratliff, Read, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—32 nays; consequently said motion was lost, and the section was rejected.

Mr. MARIGNY gave notice that he will on Friday, move to reconsider the vote rejecting the above section, and also the vote adopting the section removing the seat of government from the city of New Orleans.

On motion, the twenty-fifth section was taken up, viz:

SEC. 25. The legislature shall not have power or authority to pledge the faith of the State as security for the payment of any bonds, bills, or other contracts or obligations whatever, nor to borrow money for any purpose whatever, except for defraying the expenses of war, or for the purpose of repelling an invasion of the State by an armed force, or for suppressing an insurrection.

Mr. CENAS moved to amend said section by adding to the same the following proviso, and the same was adopted, viz:

Provided, that the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said bonds, however, to bear upon their face, either in principle or interest, an amount less than the original obligations they are intended to replace.

On motion, the section as amended, was adopted, viz:

SEC. 25. The legislature shall not have power or authority to pledge the faith of the State as security for the payment of any bonds, bills, other contracts or obligations whatever, nor to borrow money for any purpose whatever, except for defraying the expenses of war, or for the purpose of repelling an invasion of the State by an armed force, or of suppressing an insurrection.

Provided, that the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said new bonds, however, to bear upon their face, either in principle or interest, an amount less than the original obligations they are intended to replace.

On motion of Mr. ROMAN, the vote adopting said section, was reconsidered.

Mr. GUION then moved to amend said section, by inserting after the word "insurrection," in the seventh line, the words "or for the payment of the ordinary expenses of the government, when there may be a deficiency in the annual revenue."

The yeas and nays being called for on the adoption of said amendment,

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Garrett, Guion, King, Labauve, Legendre, Lewis, Pugh, Roman, Roselius, St. Amand, Taylor of St. Landry and Winchester voted in the affirmative—21 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Garcia, Humble, Hynson, Kenner, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Soulé, Splane, Stephens, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—32 nays; consequently said motion was lost.

On motion, the section was re-adopted.

Section twenty-sixth was taken up and adopted, viz:

SEC. 26. The legislature shall provide by law for a change of venue in civil and criminal cases.

Section twenty-seventh was taken up and adopted, viz:

SEC. 27. No lottery shall be authorized by this State, and the buying and selling of lottery tickets within the State shall be prohibited by law.

Section twenty-eighth was taken up and adopted, viz:

Sec. 28. No divorce shall be granted by the legislature of this State.

Section twenty-ninth was taken up, viz:

Sec. 29. Every law enacted by the legislature, shall embrace but one object, and that shall be expressed in the title.

The yeas and nays being called for on the motion to adopt said section,

Messrs. Aubert, Boudousquie, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Cénas, Chambliss, Claiborne, Covillion, Dunn, Eustis, Garcia, Guion, Humble, Hynson, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, St. Amand, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Wikoff voted in the affirmative—41 yeas; and

Messrs. Benjamin, Briant, Conrad of Orleans, Conrad of Jefferson, Garrett, Kenner, King, Labauve, McCallop, Ratliff, Roman, Roselius, Soulé and Winchester voted in the negative—14 nays; consequently said motion was carried and the section was adopted.

Section thirtieth was taken up and adopted, viz:

Sec. 30. Every law of a general nature shall be equally applicable to all parts of the State.

Mr. Ratliff gave notice that he will on to-morrow move to reconsider the vote adopting the twenty-fourth section.

Mr. Benjamin moved that the Convention adjourn till to-morrow at 9 o'clock, a. m. The yeas and nays being called for.

Messrs. Aubert, Benjamin, Boudousquie, Briant, Brumfield, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Guion, Kenner, Labauve, Legendre, McCallop, Marigny, Mazureau, O'Bryan, Porter, Prescott of St. Landry, Pugh, Ratliff, Roman, Roselius, Scott of Baton Rouge, Soulé, Stephens, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Winchester voted in the affirmative—32 yeas; and

Messrs. Bourg, Brazeale, Brent, Burton, Chambliss, Covillion, Dunn, Garrett, Humble, Hynson, King, Lewis, McRae, Mayo, Preston, Prudhomme, Read, Taylor of St. Landry, and Wikoff voted in the negative —19 nays; consequently said motion was carried, and the Convention adjourned till to-morrow at 9 o'clock, a. m.

Note.—Members absent at the first call of the house: Messrs. Beatty, Cade, Derbes, Downs, Hudspeth, O'Bryan, Penn, Prescott of Avoyelles, Scott of Madison, absent on leave. Messrs. Porche, Sellers, Soulé and Taylor of Assumption, absent on account of illness; and Messrs. Benjamin, Bourg, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Eustis, Garcia, Grymes, Guion, King, Labauve, Ledoux, Marigny, Mazureau, Preston, Pugh, Ratliff, Roselius, St. Amand, Saunders, Splane, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester and Winder did not answer to their names.

Note.—Members absent at the second call: Messrs. Benjamin, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Eustis, Garcia, Grymes, Guion, Ledoux, Marigny, Mazureau, Preston, Ratliff, Roselius, St. Amand, Wadsworth, Winchester and Winder did not answer to their names.

Thursday, May 1, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Preston opened the proceedings with prayer.

The president submitted the credentials of William Dubouchel, the member elect from the first senatorial district, to fill the vacancy occasioned by the death of the late Hon. Gilbert Leonard.

On motion of Mr. Wadsworth Mr. Dubouchel took his seat.

The secretary reported the receipt of the printers for the report of the debates of the 18th ult.

On motion, leave of absence was granted to Mr. Saunders.

Mr. Mayo moved to reconsider the vote adopting the 29th section. The yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Cade, Chambliss, Chinn, Culbertson, Dunn, Eustis, Garrett, Humble, Hynson, Kenner, King, Labuave, Ledoux, Lewis, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Pugh, Ratliff, Read, Roman, Scott of Baton Rouge, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth,

Wederstrandt, Wikoff and Winder voted in the affirmative—39 yeas; and

Messrs. Aubert, Bourg, Carriere, Claiborne, Covillion, Legendre and Mazureau voted in the negative—7 nays; consequently said motion was carried, and the section was taken up, viz:

SEC. 29. Every law of a general nature shall be equally applicable to all parts of the State.

On motion of Mr. MAYO said section was laid on the table subject to call.

Mr. RATLIFF moved to reconsider the vote adopting the twenty-fourth section, which motion prevailed, and the said section was taken up, viz:

SEC. 24. The legislature shall not have power or authority to pledge the faith of the State, as security for the payment of any bonds, bills or other contracts or obligations whatever; nor to borrow money for any purposes whatever, except for defraying the expenses of war, or for the purpose of repelling an invasion of the State by an armed force, or of suppressing an insurrection; provided, that the State shall have the right to issue new bonds in payment of any of its now outstanding obligations or liabilities whether due or not, the said new bonds however, to bear upon their face, either in principal or interest, an amount less than the original obligation they are intended to replace.

On motion of Mr. EUSTIS said section was laid on the table subject to call.

This being the day fixed for the taking into consideration the reports of the committee of revision, the report of said committee on the seventh article was taken up, viz:

The committee of revision report the following:

(Signed,) G. EUSTIS,
Chairman.

April 14, 1845.

ARTICLE VII.

MODE OF REVISING THE CONSTITUTION.

Any amendment of amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by three-fifths of the members elected to each house, and approved by the governor, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published three months before the next general election, in at least one newspaper, in French and English, in every parish in the State in which a newspaper shall be published and if, in the legislature next afterward chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if the people shall approve and ratify such amendment or amendments, by a majority of all the qualified voters of the State, such amendment or amendments shall become a part of the constitution: *Provided*, that if more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment, separately.

On motion said article was adopted as reported by the committee.

Mr. RATLIFF agreeably to notice previously given, moved to reconsider the vote adopting said article seventh. The yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Covillion*, *Culbertson*, *Dubouchel*, *Garrett*, *Humble*, *Hynson*, *Ledoux*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Splane*, *Stephens*, *Trist*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the affirmative—31 yeas; and

Messrs. *Aubert*, *Boudousquie*, *Bourg*, *Cénas*, *Claiborne*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Guion*, *Kenner*, *King*, *Legendre*, *Lewis*, *Marigny*, *Prudhomme*, *Pugh*, *Roman*, *St. Amand*, *Taylor* of St. Landry, *Wikoff* and *Winder* voted in the negative—22 nays; consequently said motion was carried and the article was taken up.

ARTICLE VII.

MODE OF REVISING THE CONSTITUTION.

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 three-fifths of the members elected to each house, and approved by the governor, such proposed amend-

ent or amendments shall be entered on eir journals, with the yeas and nays taken ereon, and the secretary of state shall ause the same to be published, three onths before the next general election, at least one newspaper, in French and nglish, in every parish in the State in hich a newspaper shall be published; and in the legislature next afterwards cho- n, such proposed amendment or amend- ents shall be agreed to by a majority of e members elected to each house, the cretary of state shall cause the same gain to be published in the manner afore- id, at least three months previous to the ext general election for representatives to e State legislature, and such proposed nendment or amendments shall be sub- itted to the people at said election; and if e people shall approve and ratify such nendment or amendments, by a majority all the qualified voters of the State, such nendment or amendments shall become a rt of the constitution: *Provided*, that if ore than one amendment be submitted at time, they shall be submitted in such anner and form that the people may vote or against each amendment separately.

Mr. GUION raised a question of order, nd objected to the motion of reconsidera- on having been carried, because the num- er voting for the reconsideration, was not, s required by the rule, greater than the umber who voted for the question moved be reconsidered.

The PRESIDENT inquired of the secretary e date of the notice for reconsideration iven by Mr. Ratliff.

By reference to the journal it was found at the notice was given on the 18th of ebruary.

The PRESIDENT decided that the rule re- ed upon by Mr. Guion was adopted on the 2th of April, and could not affect a notice iven before its adoption.

Mr. GUION appealed from the decision f the Chair.

On the question, "shall the President's ecision be maintained," the yeas and nays ere called for, and

Messrs. *Brazeale, Brent, Brumfield, Bur- n, Cade, Cénas, Chambliss, Claiborne, Covillion, Dubouchel, Dunn, Eustis, Hum- le, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott* of t. Landry, *Ratliff, Read, Scott* of Baton Rouge, *Stephens, Trist, Voorhies, Waddill, Wederstrandt* and *Winder* voted in the affirmative—31 yeas; and

Messrs. *Aubert, Boudousquié, Bourg, Briant, Chinn, Culbertson, Derbes, Garcia, Garrett, Guion, Kenner, King, Legendre, Lewis, Prudhomme, Pugh, Roman, St-Amand, Taylor* of St. Landry, *Wadsworth, Wikoff* and *Winchester* voted in the negative—22 nays; consequently the decision of the Chair was sustained.

Mr. RATLIFF then moved to amend said article by inserting in the fourth and fifth lines the words "a majority" instead of "three-fifths," and to insert in the 18th line "three-fifths" instead of "a majority."

Mr. LEWIS moved for a division of the question, first to proceed to strike out. The yeas and nays being called on the motion to strike out,

Messrs. Brazeale, Brent, Briant, Brumfield, Burton, Chambliss, Covillion, Dubouchel, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, *Ratliff, Read, Scott* of Baton Rouge, *Stephens, Trist, Waddill* and *Wedertrandt* voted in the affirmative—24 yeas; and

Messrs. *Aubert, Boudousquiè, Bourg, Carrierè, Cénas, Chinn, Claiborne, Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Kenner, King, Legendre, Lewis, Marigny, Prudhomme, Roman, St. Amand, Taylor* of St. Landry, *Wadswvrth, Wikoff Winchester* voted in the negative—25 nays; consequently said motion was lost.

Mr. CHINN moved for the previous question, which motion prevailed.

On motion the seventh article was re-adopted.

Mr. ROMAN having voted in the majority, moved to reconsider the vote adopting the eighteenth section, which motion prevailed, and the said section was taken up, viz:

SEC. 18. In all criminal prosecutions, the accused shall have the right of being heard by himself or counsel, of demanding the nature and cause of the accusation against him, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor, and prosecution by indictment or information; a speedy public trial by an impartial jury of the vicinage, nor shall he be compelled to give evidence against himself.

Mr. EUSTIS moved to amend said section by inserting after the words "against him," in the fourth line, the words "and unless he shall have fled from justice," which amendment was adopted.

On motion the section as amended was adopted, viz:

SEC. 18. In all criminal prosecutions, the accused shall have the right of being heard by himself or counsel, of demanding the nature and cause of the accusation against him, and unless he shall have fled from justice, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor, and prosecution by indictment or information; a speedy public trial by an impartial jury of the vicinage, nor shall he be compelled to give evidence against himself.

Mr. ROMAN submitted the following additional section, and the same was laid on the table subject to call, viz:

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, with any previous debts or liabilities, exceed the sum of one hundred thousand dollars,(except in cases of war, to repel invasion, and suppress insurrection,) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means by taxation for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall not be repealable until the principal and interests thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

Mr. CHINN offered the following additional sections, which were laid on the table subject to call, viz:

SEC. —. Any person who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or receive a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as a second, or aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit under this constitution.

SEC. —. I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of the State; and I do further solemnly swear (or affirm) that since the adoption of this constitution I have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending—So help me God.

Section thirtieth was taken up, viz:

SEC. 30. No law shall be revised or amended by reference to its title; but in such case the act revised, or section amended, shall be re-enacted and published at length.

Mr. CONRAD of Orleans, moved that said section be laid on the table indefinitely.

Mr. LEWIS moved to amend said section by inserting after the word "section" in the third line, the words "or article," and by inserting in the first and second lines the word "revived" instead of the word "revised;" which amendments were adopted.

Mr. CONRAD of Orleans moved that said section and amendment be laid on the table indefinitely. The yeas and nays being called for,

Messrs. *Boudousquie*, *Chinn*, *Conrad* of Orleans, *Covillion*, and *Ratliff* voted in the affirmative—5 yeas; and

Messrs. *Benjamin*, *Bourg*, *Brent*, *Brazeale*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Cénas*, *Chambliss*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Dubouchel*, *Dunn*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Humble*, *Hynson*, *Kenner*, *Ledoux*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Read*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wadsworth*, *Wederstrandt*, *Wikoff*, *Winchester* and *Winder* voted in the negative—51 nays; consequently said motion was lost.

On motion the section as amended was adopted, viz:

SEC. 30. No law shall be revised or amended by reference to its title; but in such case, the act revised, or section or ar-

ticle amended, shall be re-enacted and published at length.

Section thirty-first was taken up and adopted, viz:

SEC. 31. The State shall not become subscriber to the stock of any corporation or joint stock company.

Section thirty-second was taken up and adopted, viz:

SEC. 32. No person shall hold or exercise, at the same time, more than one civil office in this State, except one of such offices be that of a justice of the peace.

On motion of Mr. EUSTIS, the vote adopting the above section was reconsidered, and the same was taken up, viz:

SEC. 32. No person shall hold or exercise, at the same time, more than one civil office in this State, except one of such offices be that of a justice of the peace.

Mr. EUSTIS moved to amend said section by inserting after the words "civil office," in the second line, the words "of emolument," which amendment was adopted.

On motion, the section as amended was adopted, viz:

SEC. 32. No person shall hold or exercise, at the same time, more than one civil office of emolument in this State, except one of such offices be that of a justice of the peace.

Section thirty-third was taken up, viz:

SEC. 33. No corporate body shall be hereafter created, renewed or extended with banking or discounting privileges, without six months previous public notice of the intended application for the same, in such manner as shall be prescribed by law; nor shall any charter for the purposes aforesaid be granted for a longer period than twenty years, and every such charter shall contain a clause reserving to the legislature the power to alter, revoke or annul the same whenever, in their opinion, it may be expedient so to do; and every charter so granted shall be upon the express condition that the share holders or members of such corporations, shall be bound severally and *in solido*, for all the liabilities and acts of such corporation, and for the consequences resulting therefrom.

Mr. KENNER moved that said section be acted upon, paragraph by paragraph, which motion prevailed.

Mr. BRENT moved to amend said section by striking out from the word "privileges," in the third line, the balance of the section, viz:

Without six months' previous public notice of the intended application for the same, in such manner as shall be prescribed by law; nor shall any charter, for the purposes aforesaid, be granted for a longer period than twenty years; and every such charter shall contain a clause reserving to the legislature the power to alter, revoke or annul the same, whenever, in their opinion, it may be expedient so to do; and every charter so granted shall be upon the express condition that the share holders or members of such corporation, shall be bound personally and *in solido*, for all the liabilities and acts of such corporation, and for the consequences resulting therefrom.

The yeas and nays being called for on the motion of Mr. Brent to strike out,

Messrs. Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Dubouchel, Eustis, Garcia, Garrett, Humble, Kenner, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, St. Amand, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—38 yeas; and

Messrs. Aubert, Boudousquie, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hynson, King, Legendre, Pugh, Roman, Trist, Winchester and Winder voted in the negative—19 nays; consequently said motion was carried.

Mr. KENNER then moved to fill the blank with the following amendment, viz:

And should any person circulate, or cause to be circulated, any paper money issued by any corporation or person existing in any other State or country, he shall be considered guilty of a misdemeanor, and for such offence shall be amenable to such penalties as the legislature may determine.

Mr. VOORHIES moved that said amendment be laid on the table indefinitely.

The yeas and nays being called for,

Messrs. Benjamin, Brazeale, Brent, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Eustis, Humble, Ledoux, Lewis, McRae, Mayo, Peets, Porter,

Prescott of St. Landry, Prudhomme, Ratliff, Read, Roman, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Voorhies and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Aubert, Bourg, Brumfield, Chinn, Culbertson, Derbes, Duboúchel, Dunn, Garcia, Garrett, Guion, Hynson, Kenner, King, Legendre, McCallop, Marigny, Mazureau, Pugh, St. Amand, Trist, Waddill, Wikoff Winchester and Winder voted in the negative—25 nays; consequently said motion was carried.

Mr. MAYO moved for the adoption of the section as amended, viz:

SEC. 33. No corporate body shall be hereafter created, renewed or extended, with discounting privileges.

The yeas and nays being called for,

Messrs. Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Dubouchel, Eustis, Garcia, Garrett, Humble, Kenner, Ledoux, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Ratliff, Read, Scott of Baton Rouge, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—37 yeas; and

Messrs. Aubert, Cénas, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hynson, King, Legendre, Mazureau, Pugh, Roman, St. Amand, Trist, Winchester and Winder voted in the negative—18 nays; consequently said motion was adopted.

Section thirty-fourth was taken up, viz:

SEC. 34. All charters hereafter granted by the legislature, shall terminate on the first day of January, in the year one thousand eight hundred and ninety, where no certain limit has been fixed in the act of incorporation; and no corporate privileges, hereafter to be created, shall ever endure for a longer term than twenty-five years; provided that this section shall not apply to political or municipal corporations.

Mr. MARIGNY moved to amend said section by striking out the words "and no corporate privileges, hereafter to be enacted, shall ever endure for a longer term than twenty-five years."

On motion of Mr. CENAS said section and amendment were laid on the table subject to call.

Mr. CLAIBORNE submitted the following additional section, and the same was laid on the table subject to call, viz:

It shall be the duty of the legislature to define and limit in the chartes of all municipal or city corporations, the power of levying taxes on property, and of creating debts by such corporations, and to confine such power, as nearly as possible, to purposes of municipal administration and police.

Section thirty-fifth was taken up, viz:

SEC. 35. The general assembly shall never grant any exclusive privilege or monopoly, in such form as to prevent any subsequent legislature from granting similar privileges to other individuals or corporations.

Mr. BENJAMIN moved to amend the section by so modifying it as to empower the legislature to grant a monopoly for a term of years.

Mr. BRENT moved to amend said section by inserting after the word "monopoly," in the second line, the words "for a longer period than fifteen years," and to strike out the remainder of the section.

Mr. BENJAMIN moved to amend the amendment of Mr. Brent by inserting "twenty" instead of "fifteen," which amendment was adopted.

On motion, the section as amended was adopted, viz:

SEC. 35. The general assembly shall never grant any exclusive privilege or monopoly for a longer period than twenty years.

Mr. RATLIFF submitted the following additional section, and the same was adopted, viz:

The legislature shall direct by law in what manner, and in what courts, suits may be brought against the State.

Mr. EUSTIS, of the committee on education, submitted the following, viz:

An university shall be established in the city of New Orleans. It shall be composed of four faculties, to-wit: one of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the Medical College of Louisiana, as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government.

Section thirty-sixth was taken up, viz:

Sec. 36. Slaves shall be forever held and considered as immovable, and shall be regulated by the same laws as other immovable property.

On motion of Mr. Benjamin said section was laid on the table indefinitely.

Mr. Ratliff submitted the following additional section, viz:

The relation of master and slave in this State shall not be abolished, unless a bill so to abolish the same shall be passed by a unanimous vote of the members of each branch of the general assembly, and shall be published at least three months before a new election of members to the general assembly, and shall be confirmed by a unanimous vote of the members of each branch of the general assembly at the next regular constitutional session after such new election; nor then, without full compensation to the master for the property of which he has been thereby deprived.

Mr. Benjamin moved for the previous question, which motion prevailed.

Mr. Guion moved to lay said section on the table indefinitely, and called for the yeas and nays which resulted as follows:

Messrs. *Aubert, Benjamin, Bourg, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Dunn, Derbes, Eustis, Garcia, Garrett, Guion, Humble, Kenner, King, Ledoux, Lews, Legendre, McCallop, McRae, Marigny, Mayo, Peets, Prescott* of St. Landry, *Pugh, Scott* of Baton Rouge, *Splane, Stephens, Trist, Waddill* and *Winder* voted in the affirmative—38 yeas; and

Messrs. *Boudousquie, Brazeale, Claiborne, Covillion, Dubouchel, Hynson, Porter,, Prudhomme, Ratliff, Read, Roman, St. Amand, Voorhies, Wederstrandt* and *Winchester* voted in the negative—15 nays; consequently said motion was carried.

Mr. Lewis submitted the following additional section, viz:

All officers of this State appointed by the governor and senate, or elected by the people, shall be required to understand the French and English languages, so as to transact the business of their offices in either language.

Mr. Marigny moved that said section be laid on the table indefinitely. The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Brazeale, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Dubouchel, Dunn, Eustis, Garcia, Garret, Guion, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, McCallor, McRae, Marigny, Mayo, Peets, Porter, Prudhomme, Pugh, Ratliff, Read, Roman, St. Amand, Scott of Baton Rouge, Stephens, Trist, Wederstrandt, Winchester and Winder voted in the affirmative—46 yeas; and

Messrs. Bourg, Brent, Brumfield, Lewis, Prescott of St. Landry, Splane, Voorhies and Waddill voted in the negative—8 nays; consequetly said motion was carried.

Mr. Lewis gave notice that he will on Saturday next move to reconsider the vote adopting the section offered by Mr. Marigny, requiring that the secretary of the senate and clerk of the house of representatives should possess the French and English languages.

Mr. Eustis submitted the following additional section, and the same was adopted, viz:

Sec. — The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration and police of the said city, pursuant to the mode of election which shall be prescribed by the legislature; *provided*, that the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor and recorders and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

Section thirty-seventh was taken up and adopted, viz:

Sec. 37. All commissions shall be in the name and by the authority of the State of Louisiana, sealed with the State seal, and signed by the governor.

Mr. Garrett offered the following additional section, and the same was adopted, viz:

The legislature may provide by law in what case officers shall continue to perform the duties of their offices, until their successors shall have been inducted into office.

Mr. GARRETT submitted the following additional section, and the same was laid on the table, subject to call, viz:

All property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained by law. No species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value, and subject to taxation.

Mr. CONRAD of Orleans submitted the following additional section, and the same was laid on the table, subject to call, viz:

Taxation shall be equal and uniform throughout the State.

Section thirty-eighth was taken up and adopted, viz:

SEC. 38. the constitution and laws of this State shall be published in the French as well as in the English language, as heretofore.

On motion, the Convention adjourned till to-morrow at nine o'clock a. m.

NOTE.—Members absent at the call of the roll: Messrs. Beatty, Cade, Derbes, Downs, Hudspeth, O'Bryan, Penn, Saunders, Scott of Feliciana and Scott of Madison, absent on leave; Messrs. Porche, Sellers, Soule and Taylor of Assumption, absent on account of illness; and Messrs. Benjamin, Briant, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Eustis, Garcia, Grymes, Guion, Marigny, Mazureau, Preston, Prudhomme, Roselius, St. Amand, Stephens, Trist, Wadsworth, Winchester and Winder, absent at call.

FRIDAY, May 2, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings by prayer.

The secretary reported the receipt of the printers for the report of the debates of the 19th ult.

On motion of Mr. TAYLOR of St. Landry, Mr. Wikoff was excused for nonattendance on account of illness.

On motion of Mr. VOORHIES the additional section offered by him, defining the right of suffrage in certain cases, was taken up, viz:

The right of suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, or a non-commissioned officer, soldier, seaman, or marine in the service of the United States, or by any person convicted of a crime decreed by law felony.

Mr. CHINN moved to amend said section by inserting after the words "of unsound mind" the words "under interdiction."

Mr. CLAIBORNE submitted as a substitute for the above section, the following, viz:

No soldier, seaman or marine in the army or navy of the United States, or person under interdiction, nor under conviction of any crime punished with hard labor, shall be entitled to vote at any elections in this State.

Mr. TAYLOR of Assumption, moved to amend said substitute by inserting after the word "no" in the first line the word "officer." The yeas and nays being called for,

Messrs. *Derbes*, *Humble*, *King*, *Mazureau*, *Ratliff*, *Taylor* of Assumption, *Trist*, *Wederstrandt*, *Wikoff* and *Winchester* voted in the affirmative—10 yeas; and

Messrs. *Aubert*, *Boudousquie*, *Bourg Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Covillion*, *Culbertson*, *Dubouchel*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *Labauve*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peels*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Pugh*, *Read*, *Roman*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Madison, *Splane*, *Voorhies*, *Waddill*, *Wadsworth* and *Winder* voted in the negative—46 nays; consequently said motion was lost.

On motion of Mr. VOORHIES, the word "pauper" was inserted after the word "United States."

Mr. CONRAD of Orleans moved to amend said substitute by inserting after the word "pauper" the words "notorious vagrant." The yeas and nays being called for,

Messrs. *Boudousquie*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Culbertson*, *Derbes*, *Dunn*, *Guion*, *Hudspeth*, *Legendre*, *Lewis*, *Mazureau*, *Prudhomme*, *Roman*, *St. Amand*, *Taylor* of Assumption, *Voorhies*, *Wadswvrth*, *Wedertrandt* and *Winchester* voted in the affirmative—20 yeas; and

Messrs. Aubert, *Brazeale*, *Brent*, *Bur-*

ton, Cade, Cénas, Chambliss, Covillion, Dubouchel, Eustis, Humble, Hynson, Kenner, King, Labauve, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, *Pugh, Ratliff, Read, Scott* of Baton Rouge, *Scott* of Madison, *Splane, Stephens, Waddill, Wikoff* and *Winder* voted in the negative—32 nays; consequently said motion was lost.

On motion the section as amended was adopted, viz:

No soldier, seaman or marine in the army or navy of the United States, no pauper, no person under interdiction nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any elections in this State.

On motion said section was referred to the committee of revision to be classed in the legislative department.

Mr. CHINN submitted the following resolutions, and the same were referred to a special committee of five, viz:

Resolved, that immediately after the adjournment of this Convention, the governor shall issue his proclamation directing the proper officers to hold elections on the ——, in every parish in the State at which all the qualified voters under the old constitution shall decide whether they receive or reject the new constitution as submitted to them, which opinion shall be expressed by each qualified voter by depositing a ticket in the ballot box, upon which shall be written "the constitution accepted," or "the constitution rejected;" and at the conclusion of the voting, which shall be held and conducted in every respect as is the case in general elections, the commissioners holding said elections, after having carefully examined every ballot deposited, shall make due return thereof, forthwith, to the governor, who shall, in the presence of the secretary of state, attorney general, treasurer, and all persons who attend, open the said returns, with a view of ascertaining whether the new constitution has been received or rejected by the qualified voters. The result of which examination the governor shall cause to be published in the state paper, showing the number of persons who voted in favor of receiving the new constitution, and also those who voted to reject it.

Resolved, that if a majority of all the voters of the State voted in favor of the new constitution, the governor shall by proclamation, declare the same to be the fundamental law of the land, and with a view of carrying the same into operation, the governor shall issue his order to all the parish judges, directing them to hold, on the third Monday in January, 1846, elections for the election of a governor of the State, a lieutenant governor of the State, members of the legislature, and all other officers provided under this constitution.

ORDER OF THE DAY.

SEC. 34. All charters heretofore granted by the legislature shall terminate on the first of January, in the year one thousand eight hundred and ninety, where no earlier limit has been fixed in the act of incorporation, and no corporate privileges hereafter to be created, shall ever endure for a longer term than twenty-five years; provided, that this section shall not apply to political and municipal corporations.

Mr. CONRAD of Orleans, moved to amend said section by striking out the following words, viz: "All charters heretofore granted by the legislature, snall terminate on the first day of January, in the year one thousand eight hundred and ninetp, where no earlier limit has been fixed in the act of incorporation," and insert in lieu thereof the following amendment, viz:

"From and after the month of January, 1890, the legislature shall have the power to revoke the charter of all corporations whose charters shall not have expired previously to that time." Which amendment was adopted.

Mr. LEWIS moved to amend said section by inserting in the fifth line, after the words "corporate privileges," the words "except to political and municipal corporations," which amendment was adopted.

On motion the section as amended was adopted, viz:

From and after the month of January, 1890, the legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previously to that time; and no corporate privileges, except to political and municipal corporations hereafter to be created, shall ever endure for a longer term than twenty-five years.

Mr. EUSTIS submitted the following additional section, viz:

"Corporations shall not be created in

this State by special laws by the legislature, except for political or municipal purposes, but the legislature shall provide by general laws for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited."

Mr. EUSTIS moved for the adoption of said section. The yeas and nays being called for,

Messrs. *Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Cénas, Chambliss, Chinn, Conrad* of Jefferson, *Eustis, Dubouchel, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Prescott* of St. Landry, *Pugh, Read, St. Amand, Scott* of Baton Rouge, *Stephens, Voorhies, Waddill, Wederstrandt* and *Winder* voted in the affirmative—38 yeas; and

Messrs. *Carriere, Conrad* of Orleans, *Covillion, Culbertson, Derbes, Dunn, Garcia, Guion, Labauve, Porter, Ratliff, Roman* and *Winchester* voted in the negative—13 nays; consequently said motion was carried and the section adopted.

Mr. EUSTIS submitted the following additional section, viz:

After the year 1847, no corporation in this State shall issue notes or bills in any form whatever of a less denomination than ten dollars, after 1848 of a less denomination than twenty dollars, and after 1849 of a less denomination than fifty dollars.

No action shall be maintained after the year 1849 in any court in this State on any note or bill of exchange payable to bearer or indorsed in blank of a less denomination than fifty dollars; and it shall be the duty of the legislature to enforce the execution of the preceding provisions by such penal enactments as may be found necessary.

Mr. CHINN moved that the above sections be laid on the table indefinitely. The yeas and nays being called for, (Mr. Claiborne in the Chair,)

Messrs. *Aubert, Benjamin, Boudousquie, Brazeale, Briant, Brumfield, Burton, Carriere, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Legendre, Lewis, McRae, Porter, Prescott* of St. Landry, *Pugh, Ratliff Roman, Splane, Stephens, Voorhies, Wederstrandt, Winchester* and *Winder* voted in the affirmative—37 yeas; and

Messrs. *Brent, Cade, Chambliss, Dubouchel, Eustis, Garcia, Humble, Marigny, Mayo, Peets, Read, Scott* of Baton Rouge, *Scott* of Madison, *Waddill* and *Wadsworth* voted in the negative—15 nays; consequently said motion was carried.

On motion of Mr. ROMAN the section offered by him on yesterday, was taken up, viz:

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, with any previous debts or liabilities, exceed the sum of one hundred thousand dollars, (except in case of war, to repel invasion, and suppress insurrection,) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means by taxation for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

Mr. BRENT moved to lay said section on the table indefinitely. The yeas and nays being called for,

Messrs. *Brazeale, Brent, Brumfield, Cade, Carriere, Chambliss, Covillion, Dubouchel, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Marigny, Peets, Porter, Prescott* of St. Landry, *Read, Scott* of Baton Rouge, *Scott* of Madison, *Splane, Stephens* and *Voorhies* voted in the affirmative—24 yeas; and

Messrs. *Aubert, Benjamin, Boudousquie, Briant, Burton, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Derbes, Dunn, Garrett, Guion, Kenner, King, Labauve, Legendre, Mayo, Pugh, Ratliff, Roman, Trist, Waddill, Wadsworth, Wederstrandt* and *Winchester* voted in the negative—26 nays; consequently said motion was lost.

On motion of Mr. WADDILL, said section was laid on the table, to be printed, ordered and made the special order of the day for

Monday next—to be taken up together with section twenty-four.

Mr. CHINN called up the sections offered by him, in relation to duelling, viz:

SEC. —. Any citizen of this State, who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as a second, or aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit under this constitution.

SEC. —. I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of the State; and I do further solemnly swear (or affirm) that since the adoption of this constitution I have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending—So help me God.

Mr. MCRAE moved to amend said section, by inserting after the word "profit," in the last line, the words "and enjoying the right of suffrage;" which amendment was adopted.

Mr. LEWIS moved to reconsider the vote adopting the above amendment. The yeas and nays being called for,

Messrs. *Aubert*, *Brumfield*, *Chinn*, *Covillion*, *Dubouchel*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Kenner*, *Ledoux*, *Lewis*, *Peets*, *Porter*, *Prescott* of St. Landry, *Pugh*, *Read*, *Scott* of Baton Rouge, *Stephens* and *Winder* voted in the affirmative—21 yeas.

Messrs. *Benjamin*, *Boudousquie*, *Brazeale*, *Brent*, *Briant*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Derbes*, *Garcia*, *Hynson*, *Labauve*, *Legendre*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Ratliff*, *Roman*, *Scott* of Madison, *Splane*, *Voorhies*, *Waddill*, *Wederstrandt* and *Winchester* voted in the negative—29 nays; consequently the motion was lost.

On motion of Mr. LABAUVE, said section was amended, by inserting in the sixth line, after the word "second," the word "knowingly."

Mr. BENJAMIN offered the following amendment, to be inserted at the commencement of said section, viz:

"The legislature shall have the power to pass laws, providing that."

Mr. GUION moved to amend the amendment of Mr. Benjamin, by striking out the words "have the power;" which amendment was lost.

Mr. BENJAMIN moved for the adoption of the amendment offered by him. The yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Brumfield*, *Conrad* of Orleans, *Covillion*, *Dubouchel*, *Guion*, *Kenner*, *Mazureau*, *Roman*, *Winchester* and *Winder* voted in favor of said amendment—13 yeas; and

Messrs. *Brazeale*, *Brent*, *Briant*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Conrad* of Jefferson, *Derbes*, *Dunn*, *Garcia*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Labauve*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Pugh*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Splane*, *Stephens*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the negative—35 nays; consequently said motion was lost.

Mr. CONRAD of Orleans moved to amend by inserting in the 6th line after the word "knowingly the words "be present, aiding and assenting." The yeas and nays being called for, (Mr. Garcia in the chair,)

Messrs. *Aubert*, *Boudousquie*, *Brumfield* *Conrad* of Orleans, *Porter*, *Pugh*, *Ratliff*, *Roman*, *Splane* and *Winchester* voted in the affirmative—10 yeas; and

Messrs. Brazeale, *Brent*, *Briant*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Chinn*, *Conrad* of Jefferson, *Derbes*, *Dubouchel*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *Labauve*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Prescott* of St. Landry, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Stephens*, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder* voted in the negative—37 nays; consequently said amendment was rejected.

Mr. PORTER moved to amend, by striking out in the fifth line, the words, "out of it," which motion was lost.

Mr. CHINN moved for the adoption of the section as amended, viz:

Any citizen of this State who shall after the adoption of this constitution, fight a duel with deadly weapons,or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as a second or knowingly aid and assist in any manner, those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this Constitution. The yeas and nays being called for,

Messrs. *Aubert*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Conrad* of Jefferson, *Derbes*, *Dubouchel*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Labauve*, *Lewis*, *McRae*, *Mayo*, *Peets*, *Prescott*, of St. Landry, *Preston*, *Pugh*, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Stephens*, *Voorhies*, *Waddill*, *Winchester* and *Winder* voted in the affirmative—35 yeas; and,

Messrs. Boudousquie, *Cenas*, *Conrad* of Orleans, *Eustis*, *Kenner*, *Legendre*, *Mazureau*, *Porter*, *Ratliff*, *Roman*, *Splane* and *Wederstrandt* voted in the negative—12 nays; consequently said motion was carried, and the section was adopted.

Mr. Brent gave notice that he will on Monday next, move to reconsider the vote fixing the salary of the judges of the supreme court.

Mr. Garrett gave notice that he will on Monday next, move to reconsider the vote adopting the 7th section in the general provisions.

On motion, the Convention adjourned till to-morrow, at 9 o'clock, a. m.

Note.—Members absent at the first call of the house: Messrs. Beatty, Derbes, Downs, O'Bryan, Penn, Saunders and Scott of Feliciana,absent on leave. Messrs. Porche, Sellers, Soulé and Taylor of Assumption, absent on account of illness; and Messrs. Benjamin, Boudousquié, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Dubouchel, Dunn, Eustis, Garcia, Grymes, Guion, King, Ledoux, Marigny, Mazureau, Prescott of St. Landry, Preston, Pugh, Ratliff, Roselius, St. Amand, Splane, Wadsworth, Winchester and Winderabsent at call.

Note.—Members absent at the second call of the roll: Messrs. Beatty, Derbes, Downs, O'Bryan, Penn, Saunders and Scott of Feliciana,absent on leave. Messrs. Porche, Sellers, Soule, Taylor of Assumption absent on account of illness; and, Messrs. Benjamin, Boudousquie, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Dunn, Eustis, Garcia, Grymes, Ledoux, Marigny, O'Bryan, Pugh, Ratliff, Roselius, St. Amand, Splane, Trist, Wadsworth, and Winchester did not answer to their names.

Saturday, May 3, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

On motion, leave of absence was granted to Mr. Prudhomme.

This being the day fixed, Mr. Lewis moved to reconsider the vote adopting the section requiring that the secretary of the senate and the clerk of the house of representatives, should possess the French and English languages, and that any member of the general assembly may address either house in the French or English language. The yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Chinn*, *Dunn*, *Garrett*, *Hudspeth*, *Humble*, *Lewis*, *McRae*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Ratliff*, *Read*, *Scott* of Madison, *Splane*, *Stephens*, *Taylor* of Assumption, *Waddill*, *Wadsworth* and *Wederstrandt* voted in the affirmative—28 yeas; and

Messrs. *Bourg*, *Claiborne*, *Covillion*, *Culbertson*, *Dubouchel*, *Derbes*, *Eustis*, *King*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Pugh*, *Roman*, *Scott* of Baton Rouge, *Voorhies*, *Winchester* and *Winder* voted in the negative—20 nays; consequently said motion was carried, and the section taken up, viz:

"The secretary of the senate and the clerk of the house of representalives, shall possess the French and English languages, and any member of the general assembly may address either house in the French or English language."

Mr. Brent moved for a division of the question, that is, to act on the section, paragraph by paragraph.

Mr. Chinn moved for the previous question, which motion prevailed.

On motion of Mr. Guion, the previous question was reconsidered.

Mr. Taylor of Assumption, moved to

lay the section on the table indefinitely. The yeas and nays being called for,

Messrs. *Brazeale, Brumfield, Burton, Chambliss, Chinn, Dunn, Guion, Hynson, Ledoux, Lewis, McRae, Peets, Porter, Prescott* of St. Landry, *Preston, Ratliff, Read, Scott* of Madison, *Splane, Stephens, Taylor* of Assumption, *Wadsworth* and *Wederstrandt* voted in the affirmative—23 yeas; and

Messrs. *Aubert, Benjamin, Bourg, Brent, Briant, Cade, Carriere, Claiborne, Conrad* of Orleans, *Covillion, Culbertson, Dubouchel, Derbes, Eustis, Garrett, Hudspeth, Humble, King, Legendre, Marigny, Mayo, Mazureau, Pugh, Roman, Scott* of Baton Rouge, *Voorhies, Waddill, Winchester* and *Winder* voted in the negative—29 nays; consequently said motion was lost.

Mr. WADDILL moved to amend said section by adding at the end of the same, the words "or in any of the living languages."

Mr. DERBES moved to lay the amendment on the table indefinitely. The yeas and nays being called for,

Messrs. *Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad* of Orleans, *Covillion, Culbertson, Derbes, Dubouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, Marigny, Mayo, Mazureau, Peets, Prescott* of St. Landry, *Preston, Pugh, Roman, Roselius, Scott* of Baton Rouge, *Scott* of Madison, *Splane, Stephens, Taylor* of Assumption, *Voorhies, Wadsworth, Wederstrandt, Winchester* and *Winder* voted in the affirmative—48 yeas; and

Messrs. *McRae, Ratliff, Read* and *Waddill* voted in the negative—4 nays; consequently said motion was carried.

Mr. LEWIS moved for a division of the question, that is, to act on the section, paragraph by paragraph, which motion prevailed.

On the motion to adopt the first paragraph, requiring "the secretary of the senate and the clerk of the house of representatives to possess the French and English languages," the yeas and nays being called for,

Messrs. *Aubert, Benjamin, Bourg, Burton, Cade, Carriere, Claiborne, Conrad* of Orleans, *Covillion, Culbertson, Derbes, Dubouchel, Eustis, King, Ledoux, Legendre, Marigny, Mayo, Mazureau, Peets, Prescott* of St. Landry, *Pugh, Roman, Roselius, Scott* of Baton Rouge, *Splane, Taylor* of Assumption, *Voorhies, Waddill, Winchester* and *Winder* voted in the affirmative——32 yeas; and

Messrs. *Brazeale, Brent, Brumfield, Chambliss, Chinn, Garrett, Guion, Hudspeth, Humble, Hynson, Lewis, Porter, Preston, Ratliff, Read, Scott* of Madison, *Stephens, Wadsworth* and *Wederstrandt* voted in the negative——19 nays; consequently said motion was carried, and the first paragraph was adopted.

On the motion to adopt the second paragraph, requiring that "any member of the general assembly may address either house in the French or English language," the yeas and nays being called for,

Messrs. Aubert, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, *Covillion, Culbertson, Derbes, Dubouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, Lewis, Marigny, Mayo, Mazureau, Peets, Porter, Prescott* of St. Landry, *Pugh, Roman, Roselius, Scott* of Baton Rouge, *Scott* of Madison, *Splane, Taylor* of Assumption, *Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester* and *Winder* voted in the affirmative—49 yeas; and

Messrs. *Preston, Ratliff* and *Read* voted in the negative—3 nays; consequently said motion was carried, and the second paragraph was adopted; and the whole section was adopted as follows, viz:

The secretary of the senate and the clerk of the house of representatives, shall possess the French and English languages, and any member of the general assembly may address either house in the French or English language.

Mr. MARIGNY gave notice that he will on Tuesday next, move to reconsider the laying upon the table indefinitely the section offered by Mr. Eustis, in relation to the issuing of small notes by the banks.

Mr. PRESTON submitted the following additional section, viz:

"The general assembly may establish by law an adequate compensation in fees or salaries for the justices of the peace of the State."

Mr. PRESTON moved for the adoption of the above section. The yeas and nays being called for,

Messrs. *Benjamin*, *Bourg*, *Brent*, *Brazeale*, *Briant*, *Burton*, *Cade*, *Carriere*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Covillion*, *Culbertson*, *Derbes*, *Dubouchel*, *Dunn*, *Hudspeth*, *Humble*, *Hynson*, *Ledoux*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Ratliff*, *Read*, *Scott* of Baton Rouge, *Splane*, *Stephens*, *Voorhies*, *Waddill* and *Wederstrandt* voted in the affirmative—40 yeas; and

Messrs. *Aubert*, *Conrad* of Orleans, *Eustis*, *Guion*, *King*, *Roman*, *Roselius*, *Taylor* of Assumption, *Winchester* and *Winder* voted in the negative—10 nays; consequently said motion was carried, and the section was adopted.

Mr. TAYLOR of Assumption submitted the following additional section, viz:

"All judicial proceedings shall be conducted in the French language, against the citizens of the State whose mother tongue is French, and who do not understand and speak the English language."

Mr. ROSELIUS moved to amend said section, by inserting after the word "French" the words "or German."

Mr. CHINN moved to lay the section and amendment on the table indefinitely. The yeas and nays being called for,

Messrs. *Aubert*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Dunn*, *Dubouchel*, *Eustis*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Ratliff*, *Read*, *Roman*, *Scott* of Baton Rouge, *Scott* of Madison, *Splane*, *Waddill*, *Wederstrandt*, *Winchester* and *Winder* voted in the affirmative—40 yeas; and

Messrs. *Bourg*, *Briant*, *Covillion*, *Derbes*, *Guion*, *Ledoux*, *Roselius*, *Soulé* and *Taylor* of Assumption voted in the negative—9 nays; consequently said motion was carried.

Mr. MAYO offered the following additional section, and the same was adopted:

"The governor shall have power to issue writs of election, to supply vacancies that may happen in either house of the general assembly."

ORDER OF THE DAY.

Second additional section offered by Mr. Chinn, viz:

SEC. —. I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the State; and I do further solemnly swear (or affirm) that since the adoption of this constitution I have not fought with deadly weapons, within this State nor out of it, nor have I sent a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending—So help me God.

Mr. CONRAD of Orleans, moved to amend said section by striking out the words "rules and regulations of the constitution and laws of the State," and insert in lieu thereof the following words "constitution and laws of the United States and of this State;" which amendment was adopted.

Mr. CONRAD of Orleans, moved to amend by inserting after the words "I sent a challenge," the words "or accepted a challenge," which amendment was adopted.

Mr. GUION moved to amend said section by striking out the following words, viz:

And I do further solemnly swear (or affirm) that since the adoption of the present constitution, I have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent a challenge or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending.

The yeas and nays being called for on the motion of Mr. Guion to strike out,

Messrs. Briant, Cénas, Claiborne, Guion, Legendre, Marigny, Porter, Ratliff, Roman, Soulé, Splane, Wederstrandt and Winder voted in the affirmative—13 yeas; and

Messrs. Bourg, Brazeale, Brent, Burton, Cade, Carriere, Chambliss. Chinn, Covillion, Culbertson, DuBouchel, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Mayo, Peets, Prescott of St. Landry, Preston, Pugh, Read, Roselius, Scott of Baton Rouge

Scott of Madison, Stephens, Taylor of Assumption, Voorhies and Waddill voted in the negative—33 nays; consequently said motion was lost.

Mr. CHINN then moved for the adoption of the section as amended, viz:

I, (A B) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding agreeably to the constitution and laws of the United States and of this State: and I do further solemnly swear (or affirm) that since the adoption of the present constitution, I have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent a challenge or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending—So help me God.

The yeas and nays being called for on the motion to adopt the section as amended,

Messrs. Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Dunn Eustis, Hudspeth, Humble, Hynson, Ledoux, Lewis, McRae, Mayo, Peets, Preston, Pugh, Read, Roselius, Scott of Baton Rouge, Scott of Madison, Stephens, Voorhies and Waddill voted in the affirmative—36 yeas; and

Messrs. Cénas, Legendre, Marigny, Porter, Ratliff, Roman, Soulé, Splane and Wederstrandt voted in the negative—9 nays; consequently said motion was carried, and the section as amended was adopted.

On motion the first section of the general provisions was taken up, viz:

SEC. 1. Members of the general assembly and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: I, (A B,) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of this State—So help me God.

Mr. CHINN moved to amend said section by striking out the words "I, (A B) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and laws of this State—so help me God," and insert in lieu thereof the following words, viz:

I, (A B) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——— according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States and of this State.

And I do further solemnly swear (or affirm) that since the adoption of the present constitution, I have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent a challenge or accepted a challenge to fight with deadly weapons, nor have I acted as secoud in carrying a challenge, or aided, advised or assisted any person thus offending—So help me God.

On motion, said section as amended was adopted.

Section twenty-ninth was taken up, viz:

SEC. 29. Every law of a general nature shall be equaally applicable to all parts of the State.

Mr. MAYO moved to lay said section on the table indefinitely.

Mr. EUSTIS moved to amend said motion by laying said section on the table subject to call, which motion prevailed.

Mr. SCOTT of Baton Rouge, submitted, on behalf of Mr. McCallop, the following additional section, viz:

All contested elections for members of the senate and house of representatives and all other parish officers, shall be decided by the district court of the parish in which the contest shall have originated.

On motion, the Convention adjourned till Monday next, at 9 o'clock, a. m.

NOTE.—Members absent at the first call of the house: Messrs. Beatty, Downs, O'Bryan, Penn, Prescott of Avoyelles, Prudhomme, Saunders and Scott of Feliciana, absent on leave. Messrs. Porche, Sellers and Wikoff absent on account of illness; and Messrs. Benjamin, Boudousquié, Bourg, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson,

Culbertson, Derbes, Eustis, Guion, Grymes, Garcia, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mayo, Mazureau, Preston, Pugh, Ratliff, Roselius, St. Amand, Soulé, Taylor of St. Landry, Taylor of Assumption, Trist, Voorhies and Winchester did not answer to their names at the first call of the house.

Note.—Members absent at the second call of the roll: Messrs. Benjamin, Boudousquie, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Derbes, Eustis, Garcia, Grymes, Guion, Kenner, King, Labauve, McCallop, Marigny, Preston, Roselius, St. Amand, Soulè, Taylor of St. Landry, Trist and Wadsworth.

Monday, May 5, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel the Hon. Mr. Stephens, at the request of the president, opened the proceedings with prayer.

The secretary reported the receipt of the printers for the report of the debates of the 19th, 21st and 22d of April.

Mr. Carriere was excused for nonattendance on account of illness.

Mr. Read submitted the following additional report, viz:

Capital punishment shall never be inflicted in this State.

Which was laid on the table subject to call.

Mr. Brent submitted the following report, viz:

Ordered, That immediately after the adjournment of this Convention the governor shall issue hi. proclamation, directing the several officers of this State, auhtorized by law to hold elections for members of the general assembly, to open and hold an election tn every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this amended constitution. And it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this amended constitution. Each voter shall express his opinion by depositing in the ballot box a ticket, whereon shall be written "the constitution accepted," or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of said election, which shall be conducted in every respect as the general State election is now conducted, the commissioners designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of State, in conformity to the provisions of the existing law upon the subject of elections.

Ordered, That upon the receipt of the said returns, it shall be the duty of the governor, the secretary of State, the attorney general and the State treasurer, in the presence of all such persons as may choose to attend, to compare the votes given in said election for the ratification and rejection of this amended constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the amended constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this amended constitution shall be ordained and established as the constitution of Louisiana. But whether the amended constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the said election, showing the number of votes cast for and against the said constitution.

Ordered, That should this amended constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State, authorised by law, to hold elections for members of the general assembly; to hold an election at the places designated by law, upon the third Monday in January next (1846), for governor, lieutenant governor, members of the general assembly and all other officers whose election is provided for pursuant to the provisions of this amended constitution. And the said election shall be conducted, and the returns thereof made in conformity with the existing laws upon the subject of State elections.

Ordered, That the general assembly, elected under this amended constitution, shall convene at the state house in the city of New Orleans, upon the second Monday

of February next, after the election (1846); and that the gevernor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

The minority of the committee then offered the following counter report, viz:

The undersigned, a minority of the committee appointed to devise a plan by which the amended constitution shall be carried into effect, have differed from the majority as to the time and manner of submitting it to the people for their approval or rejection, have deemed it incumbent on them to make the following counter report, for which they respectfully solicit the consideration of the Convention:

They are of opinion that there should be no greater delay in calling the people together in their several election districts, to decide upon the organic law which this Convention has framed for them, than is necessary for it to be published in all parts of the State, and to become generally known to the inhabitants; and as it is probable that this body will adjourn on or about the 10th instant, the undersigned propose that the second Monday of July next should be fixed upon for its submission to the electors. This would give the people two months' time to examine and discuss it, and to compare its provisions with those of the old constitution, a period quite sufficient, to the apprehension of the undersigned, for it to be maturely considered and fully understood. At the present time the attention of the people is called to the proceedings of this Convention, and a lively interest is felt in the result of its labors. The sooner the work is submitted to them the greater is the probability of obtaining for it a full, fair and unprejudiced expression of the public sentiment. It is to be feared that the long delay proposed by the majority of the committee will have a tendency to stifle enquiry on the subject, and cause an apathy to be felt, which will defeat the object which the Convention has in view, to-wit: to procure the decision of a majority of the qualified electors, approving or rejecting the amended constitution.

The undersigned are also fully persuaded that it is contrary to good policy and sound principle to allow any class of persons, other than those who were heretofore entitled to the elective franchise, to vote for or against the new constitution. It was they who voted for the assembling of this Convention; they alone are the constituents of its members, and they only have the right to say whether the mandate given by them has been executed in such a manner as to meet their approbation. The proposition of the majority of the committee to allow, in addition to those who already possess the qualifications of voters, all who may have been constituted electors under the new constitution, to vote at the assembling of the people to decide upon that instrument, is viewed by the undersigned as amounting in effect, to a fraud upon the rights of the constituency of this Convention. It is hazarding nothing to declare that had such a proceeding been anticipated, before the people decided to call a Convention, a very large portion of those who voted for it would have refused to delegate a power which could be exercised so as to defeat their wishes, whilst they are mocked with a show of accountability, on the part of their representatives. The undersigned cannot perceive how it can be pretended that persons who are not entitled to vote under the existing constitution, should be permitted to exercise this inestimable privilege upon an occasion like that in question. Those persons had no agency in electing the members of this Convention, and could not in consequence, instruct them as to their acts. They have therefore no right to decide upon that which has been done by those who are not their agents; and this Convention has no righful power to diminish the constitutional privileges of the electors of this State, by extending the elective franchise, without their consent, to persons who are by that means enabled to nullify their wishes.

The undersigned do not deem it necessary to say any thing further in support of the views they have taken of the matter under consideration; tney submit it to the wisdom and sound discretion of the Convention.

Respectfully,

THOS. W. CHINN,

GEORGE S. GUION.

Mr. Eustis, chairman of the committee of revision, reported the legislative article.

ORDER OF THE DAY.

GENERAL PROVISIONS.

SEC. 24. The legislature shall not have power or authority to pledge the faith of the State, as security for the payment of any bonds, bills, or other contracts or obligations whatever, nor to borrow money for any purpose whatever, except for defraying the expense of war, or for the purpose of repelling an invasion of the State by an armed force, or of suppressing an insurrection.

Provided, That the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not, the said new bonds, however, to bear upon their face, either in principal or interest, an amount less than the original obligations they are intended to replace.

The following additional section, offered by Mr. ROMAN, was taken up, viz:

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, with all previous debts or liabilities, exceed the sum of one hundred thousand dollars, (except in case of war, to repel invasion or suppress insurrection) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, by taxation, for the payment of running interests during the whole time for which said debt shall be contracted and for the full and punctual discharge at maturity, of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

Mr. LEWIS offered the following as a substitute for the twenty-fourth section, viz:

SEC. 24. The legislature shall not have power or authority to pledge the faith of the State, as surety for the payment of any bonds, bills, or other contracts or obligations, for the benefit or use of any person or persons, corporation or body politic whatever; *provided*, that the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said bonds, however, not to be issued for a larger amount, or at a higher rate of interest, than the obligations they are intended to replace.

Mr. EUSTIS moved to amend said substitute by striking out the following proviso, viz:

Provided, That the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said now bonds, however, not to be issued for a larger amount or at a higher rate of interest than the original obligations they are intended to replace.

Mr. CONRAD of Orleans, moved to amend said substitute by striking out in second line the words "as surety."

The yeas and nays being called for,

Messrs. Boudousquie, Brazeale, Brent, Brumfield, Cade, Cénas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Culbertson, Debouchel, Eustis, Garrett, Guion, Humble, King, Ledoux, Mayo, Mazureau, Peets, Preston, Pugh, Read, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Voorhies, Waddill, Wadsworth, Wederstrandt and Winder voted in the affirmative—33 yeas; and

Messrs. Beatty, Bourg, Briant, Burton, Chinn, Downs, Dunn, Hudspeth, Hynson, Legendre, Lewis, McRae, Porter, Prescott of St. Landry, Roman, St. Amand, Scott of Baton Rouge and Winchester voted in the negative—18 nays; consequently said motion was carried, and the words "as surety" were stricken out.

The yeas and nays being called for on the motion of Mr. Eustis to strike out the proviso,

Messrs. Beatty, Brazeale, Cade, Chambliss, Covillion, Eustis, Humble, Hynson, Ledoux, Mayo, Peets, Porter, Preston, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Taylor of Assumption, Voorhies, Waddill and Wederstrandt voted in the affirmative—21 yeas; and

Messrs. Boudousquie, Bourg, Briant, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dubouchel, Downs, Dunn, Garrett, Guion, Hudspeth, King, Legendre, Lewis, McRae, Mazureau, Prescott of St. Landry, Pugh, Roman, St. Amand, Sellers, Wadsworth, Winchester and Winder voted in the negative—31 nays; consequently said motion was lost.

Mr. MARIGNY moved to amend said sec-

tion by inserting at its commencement the following words, viz:

"As the constitution of the United States prohibits the States from coining money or issuing bills of credit."

On motion of Mr. WADSWORTH, said amendment was laid on the table indefinitely.

Mr. TAYLOR of Assumption, moved for a division of the question, that is, to act on the section paragraph by paragraph; which motion prevailed.

The yeas and nays being called for on the motion to adopt the first paragraph, viz:

"The legislature shall not have power or authority to pledge the faith of the State for the payment of any bonds, bills, or other contracts or obligations, for the benefit or use of any person or persons, corporation or body politic watever;" resulted as follows:

Messrs. *Beatty, Boudousquie, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Cènas, Chambliss, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Covillion, Culbertson, Derbes, Downs, Dubouchel, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Ledoux, Legendre, McRae, Marigny, Mayo, Peets, Porter, Prescott* of St. Landry, *Pugh, Read, Roman, St. Amand, Scott* of Baton Rouge, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester* and *Winder* voted in the affirmative—53 yeas; the vote being unanimous, the said motion was carried, and the first paragraph was adopted.

The yeas and nays being called for on the adoption of the second paragraph, viz:

Provided, That the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said new bonds, however, not to be issued for a larger amount, or at a higher rate of interest, than the original obligations they are intended to replace,—resulted as follows,

Messrs. *Boudousquie, Bourg, Brumfield, Burton, Cénas, Chinn, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson, Derbes, Downs, Dubouchel, Dunn, Garrett, Guion, Hudspeth, King, Legendre, Lewis, McRae, Marigny, Pugh, Roman, St. Amand, Sellers, Taylor* of St. Landry, *Waddill, Wadsworth, Winchester* and *Winder* voted in the affirmative—31 yeas; and

Messrs. *Beatty, Brazeale, Brent, Chambliss, Covillion, Eustis, Humble, Hynson, Ledoux, Mayo, Peets, Porter, Read, Scott* of Baton Rouge, *Scott* of Madison, *Stephens, Taylor* of Assumption, *Voorhies* and *Wederetrandt* voted in the negative—19 nays; consequently said motion was carried, and the second paragraph was adopted.

On motion, the section as amended, was adopted, viz:

SEC. 24. The legislature shall not have power or authority to pledge the faith of the State for the payment of any bonds, bills, or other contracts or obligations, for the benefit or use of any person or persons, corporation or body politic whatever.

Provided, That the State shall have the right to issue new bonds in payment of its now outstanding obligations or liabilities, whether due or not; the said new bonds, however, not to be issued for a larger amount, or at a higher rate of interest, than the original obligations they are intended to replace.

The following additional section offered by Mr. Roman, was taken up.

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate with all previous debts or liabilities, exceed the sum of one hundred thousand dollars, (except in case of war, to repel invasion or suppress insurrection,) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, by taxation, for the payment of running interests during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity, of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

Mr. READ moved to amend said section by striking out from the third line the words, "which shall singly or in the aggregate, with any previous debts or liabilibilities, exceed the sum of one hundred thousand dollars," and to strike out from the eigth line, the remainder of said section, viz: "unless the same be authorized by

some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, by taxation, for the payment of running interests during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity, of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature returned by a general election after its passage.

The yeas and nays being called for on said motion to strike out the above words,

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Cade*, *Chambliss*, *Covillion*, *Dubouchel*, *Eustis*, *Humble*, *Hynson Ledoux*, *McRae*, *Marigny*, *Peets*, *Porter*, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Sellers*, *Soulè*, *Stephens*, *Taylor* of Assumption, *Waddill* and *Wederstrandt* voted in the affirmative—26 yeas; and

Messrs. *Boudousquie*, *Burton*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Legendre*, *Lewis*, *Mayo*, *Prescott* of St. Landry, *Pugh*, *Roman*, *St. Amand*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Winchester* and *Winder* voted in the negative—27 nays; consequently said motion was lost.

Mr. Taylor of Assumption, offered as a substitute to said section the following, viz:

"No money shall be borrowed by the State unless for ordinary administrative purposes, without the assent of the people given at a general election."

Mr. Conrad of Orleans, offered the following amendment, to be inserted at the end of said substitute, viz:

"Or unless the law authorizing the loan shall be passed by two successive legislatures, and by the same law a tax shall be imposed or a sinking fund established sufficient to pay the interest on the loan as it shall accrue, and the principal thereof at maturity; and in such case the law imposing the tax or creating the sinking fund, shall be irrepealable until the principal and interest of the debt shall be discharged."

Mr. Lewis moved to lay the substitute and amendment on the table indefinitely The yeas and nays being called for,

Messrs. *Beatty*, *Benjamin*, *Boudousquie* *Bourg*, *Brazeale*, *Briant*, *Brumfield*, *Cade* *Chambliss*, *Chinn*, *Claiborne*, *Conrad* o Orleans, *Conrad* of Jefferson, *Covillion* *Culbertson*, *Derbes*, *Downs*, *Dubouchel* *Dunn*, *Eustis*, *Garrett*, *Guion*, *Hudspeth* *Humble*, *Hynson*, *King*, *Ledoux*, *Legendre* *Lewis*, *McRae*, *Mayo*, *Peets*, *Porter*, *Pres* *cott* of St. Landry, *Pugh*, *Read*, *Roman* *Scott* of Madison, *Sellers*, *Stephens*, *Taylo* of St. Landry, *Voorhies*, *Waddill*, *Wads* *worth*, *Wederstrandt*, *Winchester* and *Winder* voted in the affirmative——4 yeas; and

Messrs. *Cénas*, *Marigny*, *Scott* of Bato Rouge, *Soulè* and *Taylor* of Assumption voted in the negative—5 nays; consequently said motion was carried.

Mr. Roman moved to amend said section by striking out the following words "the legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, with any previous debts or liabilities exceed the sum of one hundred thousand dollars," and insert in lieu thereof the following amendment, viz:

"The aggregate amount of debts hereafter contracted by the legislature, shall never exceed one hundred thousand dollars;" which amendment was adopted.

Mr. Peets moved to amend said section by inserting after the word "time," in the thirteenth line, the words "which term shall not exceed ten years;" which amendment was lost.

Mr. Roman moved for the adoption of the section as amended; the yeas and nays being called for,

Messrs. *Benjamin*, *Boudousquie*, *Bourg*, *Briant*, *Burton*, *Cènas*, *Chambliss*, *Chinn*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *King*, *Legendre*, *Lewis*, *McRae*, *Mayo*, *Prescott* of St. Landry, *Pugh*, *Roman*, *St. Amand*, *Scott* of Madison, *Taylor* of St, Landry, *Voorhies*, *Wederstrandt*, *Winchester* and *Winder* voted in the affirmative—32 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Cade*, *Covillion*, *Dubouchel*, *Eustis*, *Humble*, *Hynson*, *Ledoux*, *Marigny*, *Peets*, *Porter*, *Preston*, *Read*, *Scott* of Baton Rouge, *Sellers*, *Soulé*, *Stephens*, *Taylor* of

Assumption and *Waddill* voted in the negative—22 nays; consequently said motion was carried, and the section as amended, was adopted, viz:

The aggregate amount of debts hereafter contracted by the legislature, shall never exceed one hundred thousand dollars, (except in case of war, to repel invasion or suppress insurrection,) unless the same be authorized by some law, for some single object or work, to be distinctly specified therein, which law shall provide ways and means, by taxation, for the payment of running interests during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity, of the capital borrowed; and said law shall be irrepealable until the principal and interest thereon shall be paid and fully discharged, and shall not be put into execution until after its re-enactment by the first legislature, returned by a general election after its passage.

Mr. READ called up the additional section offered by him, viz:

"Capital punishment shall never be inflicted in this State."

Mr. CHINN moved to lay said section on the table indefinitely. The yeas and nays being called for,

Messrs. *Benjamin*, *Boudousquie*, *Brazeale*, *Brent*, *Cade*, *Cenas*, *Chinn*, *Conrad* of Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Dunn*, *Eustis*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Legendre*, *Lewis*, *Marigny*, *Mayo*, *Peets*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Roman*, *St. Amand*, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Winchester* and *Winder* voted in the affirmative—37 yeas; and

Messrs. *Beatty*, *Bourg*, *Briant*, *Burton*, *Chambliss*, *Dubouchel*, *Garcia*, *Ledoux*, *McRae*, *Porter*, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Soulé*, *Waddill* and *Wederstrandt* voted in the negative—16 nays; consequently said motion was carried.

Agreeably to notice previously given, Mr. Garrett moved to reconsider the vote adopting the seventh section of the general provisions, which motion prevailed, and said section was taken up, viz:

SEC. 7. All civil officers for the State at large shall reside within the State, and all district or parish officers within their several districts or parishes, and shall keep their respective offices at such places therein as may be required by law; and no person shall be elected or appointed to any district or parish office, who shall not have resided in such district or parish long enough before such election or appointment to have acquired the right of voting for representatives to the general assembly in such district or parish.

Mr. LEWIS moved to amend said section by striking out in the sixth, seventh and tenth lines, the words "district or," The yeas and nays being called for,

Messrs. Beatty, Benjamin, Broudousquie, Bourg, Bryant, Cenas, Chinn, Conrad of Orleans, Covillion, Culbertson, Derbes, DuBouchel, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, King, Legendre, Ledoux, Lewis, McRae, Marigny, Mayo, Roman, St. Amand, Soule, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wederstandt, Winchester and Winder voted in the affirmative—34 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Humble, Hynson, Peets, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens and Woddill voted in the negative—17 nays; consequently said motion was carried, and the words were stricken out.

Mr. GARRETT moved to amend said section by inserting at the end of the same the following amendment, viz:

"And no person shall be appointed or elected to any district office who shall not have resided in said district, or an adjoining district, long enough before such appointment or election, to have acquired the right of voting for representatives to the general assembly for the same; which amendment was adopted."

On motion, the seventh section, as amended, was adopted, viz:

SEC. 7. All civil officers for the State at large, shall reside within the State, and all district or parish officers within their respective districts or parishes, and shall keep their respective offices at such places therein as may be required by law; and no person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election or appointment to have acquired the right of voting for representatives to

the general assembly in such parish; and no person shall be appointed or elected to any district office, who shall not have resided in such district or an adjoining district, long enough before such appointment or election to have acquired the right of voting for representatives to the general assembly for the same.

Section twenty-ninth was taken up, viz:

Sec. 29. Every law of a general nature shall be equally applicable to all parts of the State.

Mr. Lewis offered as a substitute for said section the following, viz:

"No law shall be passed enabling particular individuals to make contracts which by the general laws they were not permitted to make, or removing in favor of individuals, any incapacity or disability imposed by general laws."

Mr. Dunn offered as a substitute for the substitute of Mr. Lewis, the following, viz:

"The general assembly shall not pass any private law, unless it shall be made to appear that thirty days notice of application to pass such law shall have been given, under such directions and in such manner as shall be provided by law."

Mr. Lewis moved for the adoption of the substitute offered by him. The yeas and nays being called for,

Messrs. Broudousquie, Brent, Cade, Derbes, DuBouchel, Eustis, Garrett, Hynson, Hudspeth, King, Lewis, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Stephens, Soule, Taylor of Assumption, Taylor of St. Landry, Voorhies and Wederstrandt voted in the affirmative—25 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Bryant, Brumfield, Burton, Cenas, Chambliss, Chinn, Conrad of Orleans, Covillion, Downs, Dunn, Guion, Humble, Legendre, Roman, St. Amand, Scott of Madison, Sellers. Waddill, Wadsworth, Winchester and Winder voted in the negative—25 nays; the vote being equal, the president voted in the negative; consequently said motion was lost, and the substitute was rejected.

Mr. Lewis moved for the adoption of the 29th section. The yeas and nays being called for

Messrs. Brumfield, Hudspeth, Hynson, Lewis, McRae, Porter, Prescott of St. Landry, Read, Scott of Baton Rouge, Sellers, Stephens, Taylor of St. Landry, Waddill and Wederstrandt voted in the affirmative—14 yeas; and

Messrs. Beatty, Benjamin, Broudousquie, Bourg, Brazeale, Brent, Briant, Burton, Cade, Cenas, Chambliss, Chinn, Conrad of Orleans, Covillion, Derbes, DuBouchel, Downs, Dunn, Eustis, Garrett, Garcia, Guion, Humble, King, Legendre, Marigny, Mayo, Mazureau, Peets, Roman, Scott of Madison, St. Amand, Soule, Taylor of Assumption, Voorhies, Wadsworth, Winder and Winchester voted in the negative—38 nays; consequently said motion was lost, and the section rejected.

Mr. Chinn offered the following additional section, viz:

Sec. ——. The legislature shall have power, whenever the interest of the State may require it, to create courts of probates in each parish, or such other tribunals as may be calculated to insure a faithful protection and administration of estates.

Mr. Brent moved to amend said section by adding to the end of the same the following, viz:

"The judges of said courts shall be elected by the qualified voters in each parish."

Mr. Garrett moved that the section and amendment be laid on the table indefinitely. The yeas and nays being called for,

Messrs. Benjamin, Broudousquie, Brazeale, Brumfield, Burton, Cade, Conrad of Orleans, Cenas, Downs, Dustis, Garrett, Hudspeth, Humble, Hynson, Lewis, McRae, Peets, Prescott of St. Landry, Read, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Beatty, Bourg, Brent, Bryant, Chambliss, Chinn, Covillion, Derbes, DuBouchel, Dunn, Garcia, Guion, King, Ledoux, Legendre, Marigny, Mayo, Mazureau, Porter, Pugh, Roman, Soule, Taylor of Assumption, Winchester and Winder voted in the negative; 25 nays; consequently said motion was carried.

Mr. Broudousquie gave notice that he will on to-morrow move to reconsider the vote laying on the table indefinitely the above section.

On motion, the following additional section, offered by Mr. Conrad of Orleans, was taken up, viz:

"Taxation shall be equal and uniform throughout the State."

On motion, the following section, offered by Garrett, and which had been laid on the table subject to call, and to be taken up together with the above section, was taken up, viz:

"All property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained by law. No one species of property from which a tax may be collected, shall be taxed any higher than another species of property of equal value, subject to taxation."

Mr. GARRETT moved to amend said section by adding at the end of the same the following proviso, viz:

Provided, that the legislature shall have power to tax merchants, hawkers, pedlers, privileges or incomers in such a manner as may from time to time be prescribed by law.

Mr. TAYLOR of Assumption offered as a substitute for the whole, the following, viz:

"The revenue of the State, derived from taxation, shall be assessed equally upon all the property of the State, according to its value, to be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property shall be taxed higher than any other species of property of equal value."

Pending the discussion on said substitute the Convention adjourned till to-morrow at 9 o'clock, a. m.

NOTE.—Members absent: Messrs. Beatty, O'Bryan, Penn, Prescott of Avoyelles, Prudhomme, Saunders, Scott of Feliciana, absent on leave; Messrs. Carriere, Porche and Wikoff absent on account of illness; and Messrs. Benjamin, Brumfield Cenas, Chinn, Claiborne, Conrad of Jefferson, Culbertson, Derbes, Eustis, Garcia, Grymes, Kenner, King, Labauve, McCallop, Marigny, Mazureau, Ratliff, Roselius, St. Amand, Splane, Soule, Trist, Wadsworth and Winchester did not answer to their names at the call of the House.

TUESDAY, May, 6, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. WARREN opened the proceedings with prayer.

The Secretary reported the receipt of the printers for the report of the debates of the 22d and 23d April.

Mr. PORTER gave notice that he will, on to-morrow, move to reconsider the vote adopting the section offered by Mr. Taylor of Assumption, in relation to the acquisition of residence in this State.

Mr. WINDER submitted the following resolution, viz:

Resolved, That from and after three o'clock this day no new provision shall be offered, except by way of amendment, unless the Convention shall give its consent thereto by a vote of two-thirds of the members present.

Mr. SCOTT of Baton Rouge, moved to amend said resolution by adding at the end of the same the following, viz:

And that the Convention shall adjourn *sine die*, on Saturday next at three o'clock p. m. Which amendment was accepted by Mr. Winder.

Mr. WINDER moved for the adoption of the resolution as amended.

Mr. DUNN moved for a division of the question, that is, to take the vote on the first proposition, viz:

Resolved, That from and after three o'clock this day, no new provision shall be offered, except by way of amendment.

On motion, the first proposition was adopted, viz:

Unless the Convention shall give its consent thereto, by a vote of two-thirds of the members present.

On the motion to adopt the third proposition, viz:

And that the Convention shall adjourn, *sine die*, on Saturday next, at three o'clock, p. m.

The yeas and nays being called for,

Messrs. Beatty, Bourg, Brazeale, Briant, Burton, Cade, Chambliss, Chinn, Dunn, Guion, Hynson, King, Lewis, McRae, Mayo, Pugh, Scott of Baton Rouge, Scott of Madison, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Winchester and Winder voted in the affirmative—24 yeas; and

Messrs. Boudousquie, Brent, Brumfield, Carriere, Cénas, Claiborne, Conrad of Orleans, Culbertson, Derbes, Dubouchel, Downs, Garrett, Hudspeth, Humble, Ledoux, Legendre, Mazureau, Peets, Porter, Preston, Read, Roman, Saunders, Sellers, Splane, Stephens and Wederstrandt voted in the negative—27 nays; consequently said motion was lost, and the latter clause was rejected.

On motion, the section as amended was adopted, viz:

Resolved, That from and after three o'clock this day, no new provision shall be offered, except by way of amendment, unless the Convention shall give its consent thereto, by a vote of two-thirds of the members present.

Mr. Guion submitted the following resolution:

Resolved, That after the constitution has passed through its second reading, it shall be taken, section by section, for a third reading; at which time no amendment which may be offered shall be adopted, unless by a majority of the members elected to the Convention, or by a greater number of votes than were given for the section at the first reading. No debates shall take place, and no remarks shall be permitted, but such as may be strictly necessary to explain the object of the amendment; and after all the sections shall have been acted on, the question shall be put on the final passage of the constitution.

On motion of Mr. Cade, the rules were dispensed with, in order to take up the above resolution; and the same being taken up, was adopted.

Mr. Taylor of Assumption, offered the following section, viz:

The legislature shall devise and establish a system of common schools for the education of all the children of the citizens of the State, and shall provide at least three-fourths of the funds necessary for the support thereof, by a tax on property.

Mr. Trist gave notice that he would at twelve o'clock to-day, move to reconsider the vote forming one senatorial district of the parishes of St. James and Ascension, with two senators.

Mr. Claiborne gave notice that he will to-day at one o'clock, move to reconsider the vote adopting the section offered by Mr. Porter, making all parish officers elective.

Mr. Taylor of Assumption, submitted the following section, viz:

At the general election, in the year —, and every — year thereafter, a poll shall be opened and taken in every election district in the State, as to the expediency of calling a Convention; and in the event a majority of all the qualified electors in the State shall vote in calling a Convention, the general assembly shall, at their next session, call a Convention, to consist of as many members as there shall be representatives in the house of representatives, to be chosen in the same manner and proportion as the said representatives, at the genal election next thereafter ensuing, and to meet within six months after their election, for the purpose of re-adopting, amending or changing this constitution.

A question of order being raised, viz:

Whether the above section was not in direct conflict with the section adodopted in the article providing, for the mode of revising the constitution, and consequently out of order.

Mr. Labauve in the chair, decided that the section was in order.

Mr. Taylor of Assumption, appealed from the decision of the chair.

Which decision was sustained.

Mr. Guion moved to lay said section on the table indefinitely.

The yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquie, Brumfield, Burton, Cade, Carriere, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dubouchel, Dunn, Eustis, Guion, Hudspeth, Kenner, King, Legendre, Lewis, McCallop, Marigny, Mazureau, Roman, Sellers, Stephens, Voorhies, Wadsworth, Winchester and Winder voted in the affirmative—32 yeas; and

Messrs. Brazeale, Brent, Briant, Chambliss, Covillion Culbertson, Downs, Garrett, Humble, Hynson, Ledoux, McRae, Mayo, Peets, Porter, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Taylor of Assumption, Trist, Waddill and Wederstrandt voted in the negative—27 nays; consequently said motion was carried.

Mr. WADDILL submitted the following section, and the same was laid on the table subject to call, viz:

No person shall be imprisoned for debt, in any action, or on any judgment founded upon contract, unless in cases of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

On motion of Mr. LEDOUX, the fifth section of the general provisions was reconsidered; and the same was taken up, viz:

SEC. 5. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money for the support of an army, be made for a longer term than one year. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be provided by law.

Mr. LEDOUX moved to amend said section by striking out, commencing in the third line, the words "for the support of an army," and insert in the fifth line the word "two," instead of "one," which motion prevailed.

On motion, the section as amended was adopted, viz:

SEC. 5. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

Agreeably to notice, Mr. SELLERS moved to reconsider the vote adopting the eighth section of the legislative article, which motion was lost.

It being twelve o'clock, Mr. TRIST moved to reconsider the vote forming one one senatorial district of the parishes of St. James and Ascension, with two senators.

The yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Dubouchel, Downs, Eustis, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Taylor of Assumption, Trist, Voorhies, Waddill, Wederstrandt and Winder voted in the affirmative—34 yeas; and

Messrs. Benjamin, Boudousquié, Bourg, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Mazureau, Pugh, Roman, St. Amand, Saunders Sellers and Winchester voted in the negative—26 nays; consequently said motion was carried, and the senatorial district composed of the parishes of St. James and Ascension, with one senator, was taken up.

Mr. TRIST moved to amend said district as follows, viz:

"The parish of St. James shall compose one district, with one senator.

"The parish of Ascension shall compose one district, with one senator."

Which amendment was adopted, and the section as amended was re-adopted.

Agreeably to notice, Mr. BRENT moved to reconsider the vote adopting the third section of the judiciary.

The yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Cadè, Carriere, Chambliss, Covillion, Dunn, Hudspeth, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Porter, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens and Waddill voted in the affirmative—28 yeas; and

Messrs. Beatty, Benjamin, Boudousquie, Briant, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dubouchel, Eustis, Garrett, Guion, Kenner, King, Labauve, Ledoux, Legendre, Marigny, Mazureau, Pugh, Roman, St. Amand, Soulé, Splane, Taylor of Assumption, Trist, Voorhies, Wederstrandt, Winchester and Winder voted in the negative—33 nays; consequently said motion was lost.

Mr. CLAIBORNE moved to reconsider the vote adopting the section offered by Mr. Porter, making all parish officers not provided for in this constitution, elective. The yeas and nays being called for,

Messrs. Beatty, Benjamin, Boudousquie, Brazeale, Briant, Burton, Cade, Carriere, Chambliss, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dubouchel, Eustis, Gar-

rett, Guion, Humble, Hynson, Kenner, Labauve, Ledoux, Legendre, McCallop, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Roman, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soulé, Splane, Taylor of Assumption, Trist, Voorhies, Wederstrandt Winchester and Winder voted in the affirmative—46 yeas; and

Messrs. Bourg, Brent, Brumfield, Covillion, Dunn, Hudspeth, Lewis, McRae, Preston, Read, St. Amand, Scott of Feliciana, Stephens, and Waddill voted in the negative—14 nays; consequently said motion was carried and the section taken up, viz:

All parish officers not otherwise provided for by this constitution, shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law.

Mr. CLAIBORNE moved to amend said section by adding at the end of the same the following proviso, viz:

Provided, that the mode of appointment and the tenure of office of all officers in the parish of Orleans shall remain as heretofore, unless otherwise provided by the legislature.

Mr. BOUDOUSQUIE moved to amend said proviso by inserting after the word "Orleans" the words "German coast."

The yeas and nays being called for,

Messrs. Boudousquie, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Hudspeth, Kenner, Legendre, Lewis, Roman, St. Amand, Sellers, Taylor of Assumption, Wadsworth and Winchester voted in the affirmative—18 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Downs, Dubouchel, Eustis, Garrett, Guion, Humble, Hynson, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé Splane, Stephens, Trist, Voorhies, Waddill, Wederstrandt and Winder voted in the negative—44 nays; consequently said motion was lost.

Mr. KENNER moved to amend said proviso by adding at the end of the same, the following amendment, viz:

And that the register of conveyances register of mortgages, and notaries public for the State at large, shall be appointed as the legislature may direct.

The yeas and nays being called for,

Messrs. Beatty, Boudousquie, Bourg, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Garcia, Guion, Kenner, Labauve, Legendre, Lewis, Pugh, Roman, St. Amand, Saunders, Splane, Taylor of Assumption, Trist, Wadsworth, Winchester and Winder voted in the affirmative—24 yeas; and

Messrs. Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Cénes, Chambliss, Claiborne, Conrad of Orleans, Covillion, Downs, Dubouchel, Dunn, Eustis, Garrett, Grymes, Hudspeth, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Stephens, Voorhies, Waddill and Wederstrandt, voted in the negative—40 nays; consequently said motion was lost.

Mr. CONRAD of Jefferson, moved to amend said proviso, by inserting after the word "Orleans" the words "and parish of Jefferson." The yeas and nays being called for,

Messrs. Boudousquie, Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Kenner, Legendre, Lewis, Pugh, Roman, St. Amand, Taylor of Assumption, Wadsworth and Winchester voted in the affirmative—17 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brumfield, Burton, Cade, Cénas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Downs, Dubouchel, Eustis, Garrett, Grymes, Guion, Hudspeth, Humble, Hynson, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soulé, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Winder voted in the negative—45 nays; consequently said motion was lost.

Mr. CLAIBORNE moved for the adoption of the proviso. The yeas and nays being called for,

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton,

Cade, Cénas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Derbes, Downs, Dubouchel, Eustis, Grymes, Guion, Humble, Hynson, Ledoux, Legendre, McCallop, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Pugh, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soulé, Splane, Taylor of Assumption, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—46 yeas; and

Messrs. Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Hudspeth, King, Labauve, Lewis, McRae, Preston, St. Amand, Scott of Feliciana, Stephens and Waddill voted in the negative—15 nays; consequently said motion was carried, and the proviso adopted.

Mr. CLAIBORNE moved for the adoption of the section as amended, to wit:

All parish officers not otherwise provided for by this constitution, shall be elected by the qualified electors of the different parishes in such manner as shall be prescribed by law; provided, that the mode of appointment and tenure of office of all the officers in the parish of Orleans shall remain as heretofore, unless otherwise provided by the legislature.

The yeas and nays being called for,

Messrs. *Benjamin*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Downs*, *Dubuchel*, *Eustis*, *Humble*, *Hynson*, *Ledoux*, *Legendre*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Porter*, *Prescott* of St. Landry, *Preston*, *Pugh*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soulé*, *Stephens*, *Trist*, *Voorhies*, *Wederstrandt* and *Winchester* voted in the affirmative—39 yeas, and

Messrs. *Beatty*, *Boudousquiè*, *Bourg*, *Brient*, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Kenner*, *King*, *Labauve*, *Lewis*, *Roman*, *St. Amand*, *Splane*, *Taylor* of Assumption, *Waddill*, *Wadsworth*, and *Winder* voted in the negative—23 nays; consequently said motion was carried and the section was adopted.

Mr. WINCHESTER gave notice that he will on to-morrow move to reconsider the vote adopting the above section.

Agreeably to notice Mr. MARIGNY moved to reconsider the vote removing the seat of government from the city of New Orleans. The yeas and nays being called for,

Messrs. *Benjamin*, *Brent*, *Briant*, *Cénas*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Downs*, *Dubouchel*, *Eustis*, *Garrett*, *Humble*, *King*, *Legendre*, *Marigny*, *Mayo*, *Mazureau*, *Porter*, *Prescott* of St. Landry, *Preston*, *Roman*, *Scott* of Madison, *Soulè* and *Voorhies* voted in the affirmative—26 yeas; and

Messrs. *Beatty*, *Boudousquie*, *Bourg*, *Brazeale*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Covillion*, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Hynson*, *Kenner*, *Labauve*, *Lewis*, *McCallop*, *McRae*, *Peets*, *Pugh*, *Read*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taytor* of St. Landry, *Trist*, *Waddill*, *Wederstrandt*, *Winchester* and *Winder* voted in the negative—36 nays; consequently said motion was lost.

Mr. WADDILL called up the section offered by him, viz:

No person shall be imprisoned for debt, in any action, or any judgment founded upon contract, unless in cases of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

Mr. GARRETT moved to lay said section on the table indefinitely. The yeas and nays being called for,

Messrs. *Beatty*, *Boudousquie*, *Brazeale*, *Brumfield*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Conrad* of Orleans, *Conrad* of Jefferson, *Covillion*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *McCallop*, *Mayo*, *Peets*, *Pugh*, *Roman*, *Saunders*, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of St. Landry, *Voorhies*, *Winchester* and *Winder* voted in the affirmative—33 yeas; and

Messrs. *Benjamin*, *Bourg*, *Brent*, *Chinn*, *Claiborne*, *Culbertson*, *Derbes*, *Dubouchel*, *Dunn*, *Eustis*, *Garcia*, *Hynson*, *McRae*, *Marigny*, *Porter*, *Prescott* of St. Landry, *Read*, *Scott* of Baton Rouge, *Scott* of Madison, *Soulé*, *Taylor* of Assumption, *Trist*, *Waddill* and *Wederstrandt* voted in the negative—24 nays; consequently said motion was carried.

ORDER OF THE DAY.

Additional section of Mr. CONRAD of New Orleans, viz:

"Taxation shall be equal and uniform throughout the State."

To which Mr. GARRETT offered the following amendment, viz:

"All property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained by law. No one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value and subject to taxation."

Provided, the legislature shall have power to tax merchants, hawkers, pedlers, privleges or incomes, in such manner as may from time to time be prescribed by law.

The question under consideration at the adjournment, was the following substitute, offered by Mr. Taylor of Assumption, viz:

The revenue of the State derived from taxation shall be assessed equally upon all the property of the State, according to its value, ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property shall be taxed higher than another species of property of equal value.

Mr. EUSTIS moved to lay the amendment and substitute on the table indefinitely.

Mr. PORTER moved for a division of the question, that is, to take the vote on the substitute; which motion prevailed.

The yeas and nays being called for on the motion of Mr. Eustis, to lay the substitute on the table indefinitely, resulted as follows:

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Dubouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallep, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Read, Roman, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Voorhies, Wederstrandt and Winder voted in the affirmative—39 yeas; and

Messrs. Bourg, Briant, Cade, Garcia, King, Mazureau, Preston, Scott of Baton Rouge, Taylor of Assumption, Taylor of St. Landry, Trist, Waddill, Wadsworth and Winchester voted in the negative—14 nays; consequently said motion was carried.

Mr. WINDER submitted the following resolution, viz:

Resolved, That this Convention shall hold evening sessions during the remainder of the session, and that the secretary have power to employ such additional clerk or clerks as he may deem necessary for keeping up the proceedings.

On motion, the Convention adjourned till to-morrow, at 9 o'clock, a. m.

NOTE.—Members absent: Messrs. Downs, Penn, Prescott of Avoyelles, Prudhomme and Scott of Feliciana absent on leave; Messrs. Porche, Carriere and Wikoff absent on account of illness; and Messrs. Aubert, Benjamin, Cénas, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Garcia, Grymes, Guion, Kenner, King, Labauve, Ledoux, McCallop, Marigny, Ratliff, Saunders, Roselius, Soulé, Taylor of Assumption, Trist and Wadsworth did not answer to their names at the call of the roll.

NOTE.—Members absent at the call of the house: Messrs. Conrad of Jefferson, Grymes, Ledoux, Peets, Ratliff, Roselius and Wadsworth did not answer to their names.

WEDNESDAY, May 7, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

Mr. WINDER having voted in the majority, gave notice, that he will on to-morrow move to re-consider the vote forming one senatorial district of the city of New Orleans.

Mr. VOORHIES was excused for non-attendance on account of illness in his family.

On motion of Mr. WINCHESTER the taking of the vote on the motion to reconsider the vote adopting the section making all parish officers not otherwise provided for by this constitution, elective, was postponed until 12 o'clock this day.

On motion of Mr. TAYLOR of Assumption the taking of the vote on the motion to reconsider the vote adopting the proviso excepting New Orleans from the section making all parish officers elective, was postponed until 12 o'clock this day.

Mr. ROMAN was excused from serving on the committee of enrollment, and the

President appointed Mr. Boudousquie in his stead.

ORDER OF THE DAY.

GENERAL PROVISIONS.

Additional section of Mr. Conrad of Orleans, viz:

Taxation shall be equal and uniform throughout the State.

Mr. GARRETT's amendment to the above, viz:

"All property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained by law. No one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value and subject to taxation: *Provided*, that the legislature shall have the power to tax merchants, hawkers, pedlers, privileges or incomes in such manner as may from time to time be prescribed by law."

The question under consideration at the adjournment, was the motion of Mr. Eustis to lay the amendments on the table indefinitely.

Mr. GARRETT moved for a division of the question, that is, to act on each amendment separately.

Mr. EUSTIS then moved that the proviso be laid on the table indefinitely, viz:

Provided, the legislature shall have power to tax merchants, hawkers, pedlers, privileges or incomes, in such manner as may from time to time, be prescribed by law. Which motion was lost.

Mr. EUSTIS then moved that the amendment be laid on the table indefinitely, viz:

"All property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained by law. No one species of property, from which a tax may be collected, shall be taxed higher than another species of property of equal value and subject to taxation." Which motion was lost.

Mr. LEWIS moved to amend the amendment by striking out in the first line the words "subject to taxation," and insert in their stead the words "on which taxes shall be levied," and in the last line strike out the words "subject to taxation" and insert the words "on which taxes shall be levied." Which amendments were adopted.

Mr. LABAUVE moved to amend said amendment by inserting in the third line after the word "ascertained" the words "as directed;" which amendment was adopted.

Mr. WADDILL moved to amend Mr. Conrad's section by adding after the word "State" the words "on all moveable and immoveable property;" which amendment was lost.

Mr. BENJAMIN offered as a substitute for the amendment of Mr. Garrett, the following, viz:

"All property on which taxes shall be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value on which taxes shall be levied."

Mr. WINCHESTER moved to amend said substitute by adding at the commencement of the same the words "after the year 1848;" which amendment was accepted by Mr. Benjamin and adopted.

Mr. BENJAMIN moved for the adoption of the substitute as amended, viz:

"After the year 1848, all property on which taxes shall be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of equal value on which taxes shall be levied."

The yeas and nays being called for,

Messrs. Brazeale, Brent, Briant, Brumfield, Cade, Carriere, Chambliss, Covillion, Culbertson, Du Bouchel, Dunn, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Lewis, McRae, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt and Wikoff voted in the affirmative—36 yeas; and

Messrs. Aubert, Beatty, Bourg, Benjamin, Burton, Cénas, Chinn, Claiborne, Derbes, Downs, Eustis, Guion, Labauve, Legendre, Marigny, Mayo, Pugh, Roman, St. Amand, Sellers, Wadsworth, Winchester and Winder voted in the negative—24 nays; consequently said motion was carried.

Mr. BENJAMIN offered as a substitute to the proviso, the following, viz:

"*Provided*, that the legislature shall have power to levy an income tax, and to

tax all persons pursuing any occupation, trade or profession."

On motion said substitute was adopted.

Mr. GARRETT moved for the adoption of the section as amended. The yeas and nays being called for,

Messrs. Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Conrad of Jefferson, Covillion, Culbertson, DuBouchel, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Lewis, McRae, Peets, Porter, Prescott of St. Landry, Preston, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Madison, Scott of Feliciana, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt and Wikoff, voted in the affirmative; 40 yeas; and

Messrs. Aubert, Beatty, Benjamin, Cenas, Chinn, Claiborne, Derbes, Downs, Eustis, Grymes, Guion, Labauve, Ledoux, Legendre, Mayo, Mazureau, Pugh, Roman, St. Amand, Sellers, Wadsworth, Winchester and Winder voted in the negative—23 nays; consequently said motion was carried, and the section as amended was adopted, viz:

"Taxation shall be equal and uniform throughout the State. After the year 1848 all property on which taxes shall be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value, on which taxes shall be levied. *Providid*, that the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession."

It being the hour of twelve o'clock, Mr. WINCHESTER moved to reconsider the vote adopting the section making all parish officers elective. The yeas and nays being called for,

Messrs. Aubert, Beatty, Bourg, Briant, Carriere, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Preston, Pugh, Roman, St. Amand, Saunders, Taylor of Assumption, Taylor of St. Landry, Waddill, Wikoff, Winchester and Winder voted in the affirmative—28 yeas; and

Messrs. Benjamin, Brazeale, Brumfield, Brent, Burton, Cade, Cenas, Chambliss, Claiborne, Covillion, DuBouchel, Eustis, Grymes, Humble, Hynson, Ledoux, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stepens, Trist, Voorhies and Wederstrandt voted in the negative—35 nays; consequently said motion was lost.

This being the hour fixed, Mr. TAYLOR of Assumption moved to reconsider the vote adopting the proviso which excepts New Orleans from the provisions of the section making all parish officers elective. The yeas and nays being called for,

Messrs. Aubert Briant, Chinn, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McRae, Preston, Pugh, Saunders, Scott of Feliciana, Taylor of Assumption, Taylor of St. Landry, Waddill, Wikoff, Winchester and Winder voted in the affirmative—26 yeas; and

Messrs. Beatty, Benjamin, Bourg, Brazeale, Brent, Brumfield, Burton, Carriere, Cade, Cenas, Chambliss, Claiborne, DuBouchel, Downs, Eustis, Grymes, Humble, Hynson, Ledoux, McCallop, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Read, Roman, Roselius, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Trist, Voorhies and Wederstrandt voted in the negative—37 nays; consequently said motion was lost.

On motion of Mr. LEDOUX the following section was taken up, viz:

"There shall be appointed by the governor, with the advice and consent of the senate, an auditor , whose duty it shall be to examine and approve all accounts before they are paid by the treasurer. He shall assist the legislature in examining the accounts of the treasurer, and perform all other duties which may be required of him by law."

On motion of Mr. BENJAMIN, said section was laid on the table indefinitely.

Agreeably to notice, Mr. SELLERS moved to reconsider the sixth section of the legislative article.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Brazeale, Brent, Briant, Brumfield, Chambliss, Downs,

Dunn, Guion, Hynson, Kenner, King, McCallop, Porter, Prescott of St. Landry, Pugh, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Taylor of St. Landry, Waddill, Wikoff and Winchester voted in the affirmative—25 yeas; and

Messrs. Benjamin, Burton, Cade, Carriere, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Eustis, Garrett, Grymes, Hudspeth, Humble, Labauve, Ledoux, Legendre, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Preston, Prudhomme, Roman, Roselius, Scott of Baton Rouge, Stephens, Taylor of Assumption, Voorhies, Wadsworth and Wederstrandt voted in the negative—37 nays; consequently said motion was lost.

The rules being dispensed with, Mr. Taylor of Assumption moved to reconsider the twenty-third section of the legislative article.

The yeas and nays being called for,

Messrs. Brent, Briant, Chinn, Claiborne, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, Guion, McRae, Porter, Preston, Roman, Taylor of Assumption, Waddill, Wadsworth and Winchester voted in the affirmative—18 yeas; and

Messrs. Aubert, Beatty, Brazeale, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Conrad of Orleans, DuBouchel, Dunn, Eustis, Garrett, Grymes, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mayo, Mazureau, Peets, Prescott of St. Landry, Prudhomme, Read, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Wederstrandt, Wikoff and Winder voted in the negative—45 nays; consequently said motion was lost.

First congressional district:

From the parish of Plaquemines, take one member,	1
From the third municipality of New Orleans,	1
From the first municipality of New Orleans,	1—3

Second congressional district:

From the second municipality of New Orleans, take	2
From the parish of Jefferson,	1
" " Assumption,	1
From the parish of Lafourche Interior,	1—5

Third congressional district:

From the parish of Iberville, take	1
" " East Baton Rouge,	1
" " East Feliciana,	1
" " West Feliciana,	1—4

Fourth congressional district:

From the parish of St. Martin, take	1
" " St. Mary,	1
" " Lafayette,	1
" " St. Landry,	1
" " Avoyelles,	1
" " Rapides,	1
" " Natchitoches,	1
" " Catahoula and Claiborne,	1—8
Total,	20

From 98 deduct 20—78 members of the house of representatives.

Mr. Conrad moved for the adoption. The yeas and nays being called for,

Messrs. Cénas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Dunn, Preston, Saunders, Sellers, Waddill and Winchester voted in the affirmative—13 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, DuBouchel, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Prudhomme, Pugh, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Wadsworth, Wederstrandt, Wikoff and Winder voted in the negative—52 nays; consequently said motion was lost.

On motion of Mr. Dunn, the report of the committee on the bill of rights, was taken up, viz:

The committee appointed to report a bill of rights, beg leave to represent, that they have had the same under consideration, and believing as they do, that in all republican governments, and especially in the organic laws thereof, that a frequent recurrence to first principles is both necessary and proper, we therefore respectfully recommend and submit to your consideration, the following bill of rights, to wit:

That the great and essential principles

of liberty and free government may be recognized and unalterably established, we, the representatives of the people of the State of Louisiana, declare—

Sec. 1. That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing and obtaining safety and happiness.

Sec. 2. All political power is inherent in the people; all free governments are founded on their authority, and instituted for their peace, safety and happiness, public officers are their trustees and servants, and at all times amenable to them; of all forms of government that is best which is capable of producing the greatest degree of happiness and safety to the greatest number of persons, and is most effectually secured against the dangers of mal-administration, and when any form of government shall be found inadequate, or contrary to those purposes, a majority of the community have an unalienable and indefeasible right to reform, alter or abolish their form of government in such manner as they may think most conducive to the public weal.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect or support any place of worship, or to maintain any minister or priest, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment, or mode of worship.

Sec. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

Sec. 5. That elections shall be free and equal.

Sec. 6. That the right of trial by jury shall remain inviolate.

Sec. 7. That the people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and that general warrants whereby an officer may be commanded to search suspected places without evidence of the fault committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 8. That no free man shall be taken or imprisoned, or deseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property, but in pursuance of the judgment of his peers, or the law of the land.

Sec. 9. That no person shall, for the same offence, be twice put in jeopardy of life or liberty.

Sec. 10. That excessive bail shall not be required, nor excessive fines imposed, no cruel and unusual punishments inflicted.

Sec. 11. That all courts shall be open; and every man for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State in such manner and in such courts as the legislature may by law direct.

Sec. 12. That the person of a debtor, when there is not strong presumption of fraud, shall not be confined in prison after the delivery up of his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

Sec. 13. That the printing press shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch or officers of the government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak and write and print on any subject, being responsible for the abuse of that liberty. But in prosecuting for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments or prosecutions for libels, the jury shall have a right to determine the law and the facts under the direction of the court, as in other criminal cases.

Sec. 14. That no retrospective law, or law impairing the obligation of contracts, shall be made.

Sec. 15. That no man's particular vices shall be demanded, or property taken or applied to public use, without the consent of his representative, or without just compensation being made therefor.

Sec. 16. That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

Sec. 17. That the citizens have a right in a peaceable manner to assemble together for the common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by address or remonstrance.

Sec. 18. That the sure and certain defence of a free people is a well regulated militia, and as standing armies in time of peace are dangerous to freedom, they ought to be avoided as far as the circumstances and safety of the community will admit; and that in all cases, the military shall be kept in strict subordination to the civil authority.

Sec. 19. That the free white men of this State have a right to keep and bear arms in defence of themselves and the State.

Sec. 20. That an equal participation of the navigation of the Mississippi river is one of the inherent rights of the citizens of this State; it cannot therefore be conceded to any prince, potentate, power, person or persons whatever.

Sec. 21. That no hereditary emoluments, privileges or honors shall ever be granted or conferred in this State.

Sec. 22. That the legislature shall have power to extend this constitution, and the jurisdiction of this State over all territory claimed at this time by the State of Louisiana, or which may hereafter be ascertained to be within her limits, or over any territory acquired by compact with any State, or with the United States, the same being done by consent of the United States.

Mr. Beatty moved that said report be laid on the table indefinitely.

Mr. Beatty moved for the previous question; the yeas and nays being called for, shall the main question be now put,

Messrs. *Aubert, Benjamin, Bourg, Brazeale, Burton, Cade, Carriere, Chambliss, Conrad* of Orleans, *Conrad* of Jefferson, *Covillion, Derbes, Downs, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, Mayo, Mazureau, Pugh, Roman, St. Amand, Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of St. Landry, *Trist, Voorhies, Wikoff, Winchester* and *Winder* voted in the affirmative—41 yeas; and

Messrs. *Brumfield, Cènas, Claiborne, Culbertson, DuBouchel, Dunn, Garcia, McRae, Marigny, Peets, Porter, Prescott* of St. Landry, *Preston, Prudhomme, Read, Roselius, Saunders, Scott* of Baton Rouge, *Taylor* of Assumption and *Waddill* voted in the negative—20 nays; consequently said motion was carried.

The yeas and nays being called for, on the motion to lay said report on the table indefinitely, resulted as follows:

Messrs. *Aubert, Beatty, Bourg, Burton, Carriere, Chambliss, Conrad* of Orleans, *Conrad* of Jefferson, *Derbes, Downs, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, Mayo, Pugh, Roman, St. Amand, Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies, Wikoff, Winchester* and *Winder* voted in the affirmative——35 yeas; and

Messrs. *Brazeale, Brent, Cade, Cénas, Claiborne, Covillion, Culbertson, DuBouchel, Dunn, Humble, Hynson, McCallop, McRae, Marigny, Porter, Prescott* of St. Landry, *Preston, Prudhomme, Read, Roselius, Saunders, Scott* of Baton Rouge, *Trist* and *Waddill* voted in the negative—24 nays; consequently said motion was carried.

On motion, the preamble of the constitution was taken up, viz:

"We, the people of the State of Louisiana, by our representatives in Convention assembled, in order to secure to the citizens thereof the enjoyments of the rights of life, liberty and property, and of pursuing happiness, do order and establish the following constitution and civil form of government."

Mr. Eustis moved to lay the same on the table indefinitely, which motion was lost.

Mr. Taylor of Assumption offered as a substitute for the preamble, the following, viz:

"We, the people of the State of Louisiana, do ordain and establish the following

constitution, for the government of ourselves and our posterity."

Mr. BEATTY moved to amend said substitute, by striking out the words "and our posterity;" which motion prevailed.

On motion of Mr. PORTER, said substitute was laid on the table indefinitely.

Mr. DOWNS offered the following substitute, and the same was adopted, viz:

PREAMBLE.

"We, the people of the State of Louisiana, do ordain and establish the following Constitution."

On motion of Mr. DUNN, the report of the committee on education was taken up, viz:

SEC. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years; whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

SEC. 2. The legislature shall encourage the institution of common schools throughout the State, for the promotion of literature and the arts and sciences, and shall provide means for that purpose and for their support.

SEC. 3. The proceeds of all lands that have been or hereafter may be granted by the United States to this State for the use or support of schools, and of all lands that have been or may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan; and shall be and remain a perpetual fund, on which the State shall pay an annual interest of per cent. ; which interest together with all the rents of the unsold lands, shall be inviolably appropriated to the supoort of such schools and institutions of learning throughout the State, until the rents or interest, or both together, shall amount to the sum of per annum; after which, the annual excess of such rents and interest may be applied by the legislature to other objects.

SEC. 4. The fund arising from the rents or sales which may hereafter be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be inviolably applied to the use specified, or that may be specified in the grant.

And your committee recommend the adoption of the following resolution:

Resolved, That our representatives and senators in congress be requested to use their best efforts to procure the passage of a law granting to this State, the unsold lands within this State belonging to the United States, or as large a portion thereof as possible, for the purpose of education; and to co-operate, if necessary, to effect that object with the representatives and senators in congress from other States.

Mr. EUSTIS, of the committee on education, submitted the following, viz:

An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: One of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the Medical College of Louisiana, as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government.

Mr. KENNER offered as a substitute for the second section the following, viz:

"The legislature shall establish throughout the State a system of free schools, for the education of all the children of the people of the State, and shall provide the means for that purpose, and for their support."

Mr. LEWIS offered as a substitute for the whole, the following, viz:

"SEC. — The legislature shall establish free schools throughout the State, and shall provide means for their support. The proceeds of all lands that have been, or hereafter may be granted by the United States to this State for the use or support of schools, and of all lands that may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and

all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan; and shall be and remain a perpetual fund, on which the State shall pay an annual interest of per cent. ; which interest, together with all the rents of the unsold lands, shall be inviolably appropriated to the support of such schools.

SEC. — The fund arising from the rents or sales which have been, or may hereafter be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be inviolably applied to the use specified, or that may be specified in the grant.

Mr. KENNER moved to amend said substitute by inserting in the second line after "free," the word "public," which amendment was adopted.

Mr. GARCIA gave notice that he will on Friday next move to reconsider the vote adopting the section on duelling in this State.

Mr. PRESTON then moved to lay the report on education and all the amendments on the table indefinitely. The yeas and nays being called for,

Messrs. Aubert, Brazeale, Brumfield, Burton, Guion, Hudspeth, Lewis, McCallop, Preston, Pugh and Waddill voted in the affirmative—11 yeas; and

Messrs. Beatty, Cade, Cenas, Chambliss, Conrad of Jefferson, Derbes, Dunn, Eustis, Garcia, Garrett, Humble, Hynson, Kenner, King, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Read, Roman, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Stephens, Taylor of Assumption, Taylor of St. Landry, Wederstrandt, Wikoff, Winchester and Winder voted in the negative—32 nays; consequently said motion was lost.

On motion of Mr. KENNER the first section of said report was laid on the table indefinitely, viz:

SEC. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years, whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

Mr. DUNN gave notice that he will move to reconsider the vote laying said section on the table indefinitely.

Mr. KENNER accepted the substitute of Mr. Lewis, and moved its adoption.

Pending the discussion on said motion, the Convention adjourned until to-morrow at nine o'clock, a. m.

NOTE. Members absent: Messrs. O'. Bryan, Penn, Prescott of St. Landry and Prudhomme absent on leave; Mr. Porche absent on account of illness, and Messrs. Benjamin, Broudousquie, Cade, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Dunn, Eustis, Garcia, Grymes, Guion, King, Labauve, Ledoux, Marigny, Mazureau, Preston, Pugh, Ratliff, Roselius, St. Amand, Soule, Splane, Taylor of Assumption, Trist, Wadsworth, Wikoff and Winchester did not answer to their names at the call of the House.

THURSDAY, May 8, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. GOODRICH opened the proceedings with prayer.

The President submitted a letter of invitation from the president of the executive committee of the agricultural and mechanic association of the State of Louisiana, to attend at the annual fair which is to take place at the town of Baton Rouge, on the 12th inst.

On motion of Mr. DUNN said invitation was accepted.

Mr. EUSTIS, chairman of the committee of revision, submitted the following report, viz:

"The committee of revision report to the Convention that they consider it advisable to defer a further revision of the articles of the constitution until the unfinished business be transacted, and all the articles of the constitution be adopted at the first reading."

(Signed)

GEO. EUSTIS, Chairman.

On motion of Mr. CHINN said report was laid on the table, subject to call.

Mr. WINDER withdrew the notice he had given to move for the reconsideration of the vote forming one senatorial district of the city of New Orleans.

On motion of Mr. TAYLOR of Assump-

tion the rules were dispensed with, in order that all motions for reconsideration be taken up to-day at twelve o'clock, m.

Mr. WADDILL offered the following resolution, and the rules being dispensed with, the same was adopted—viz:

"No new motion for reconsideration shall be allowed after twelve o'clock, m. this day, unless by a concurrence of three-fourths of all the members of this Convention."

Mr. HUMBLE gave notice that he will move to reconsider the vote adopting the section removing the seat of government from the city of New Orleans.

Mr. PORTER moved that the rules be dispensed with in order to call up the 27th section of the bill of rights; which motion was lost.

ORDER OF THE DAY.

Substitute of Mr. LEWIS on education; viz:

SEC. 1. The legislature shall establish free public schools throughout the State, and shall provide means for their support.

SEC. 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this State for the use or support of schools, and of all lands that may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan; and shall be and remain a perpetual fund, on which the State shall pay an annual interest of per cent. ; which interest, together with all the rents of the unsold lands, shall be inviolably appropriated to the support of such schools.

SEC. 3. The fund arising from the rents or sales which may hereafter be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be inviolably applied to the use specified, or that may be specified in the grant.

Mr. TAYLOR of Assumption moved to amend the first section, by adding at the end of the same the words "by taxation on property, or otherwise;" which amendment was adopted.

On motion the first section, as amended, was adopted, viz:

SEC. 1. The legislature shall establish free public schools throughout the State, and shall provide means for their support, by taxation on property or otherwise.

On motion the second section was taken up, viz:

SEC. 2. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the use or support of schools, and of all lands that may hereafter be granted by the United States, or by any person or persons, body politic or corporate, to this State, and not granted expressly for any other purpose, which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law, shall be held by the State as a loan; and shall be and remain a perpetual fund, on which the State shall pay an annual interest of per cent. ; which interest, together with all the rents of the unsold lands, shall be inviolably appropriated to the support of such schools.

Mr. MAYO moved to fill the blank in said section with "eight," which motion was lost.

Mr. DOWNS moved to fill the blank with "seven," and the yeas and nays being called for,

Messrs. Brazeale, Cade, Cénas, Chambliss, Claiborne, Downs, Dunn, Humble, Hynson, King, Mayo, Porter, Prescott of St. Landry, Roman, Saunders, Splane, Taylor of Assumption, Trist, Waddill, Wederstrandt and Winchester voted in the affirmative—21 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Briant, Brumfield, Burton, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, DuBouchel, Eustis, Garrett, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, McCallop, McRae, Marigny, Peets, Preston, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff and Winchester voted in the negative—38 nays; consequently said motion was lost.

On motion of Mr. MAYO, the blank was filled with "six."

Mr. CONRAD of Orleans moved to amend said section by striking out the following words, viz: "and not granted expressly for any other purpose which shall hereafter be sold or disposed of, and all estates of deceased persons to which the State may be or hereafter become entitled by law."

Mr. KENNER moved to lay said amendment on the table indefinitely.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brumfield, Burton, Cade, Chambliss, Chinn, Covillion, Derbes, Dunn, DuBouchel, Eustis, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Preston, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Winchester and Winder voted in the affirmative—48 yeas; and

Messrs. Briant, Cènas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Downs, Guion, Pugh, St. Amand, Sellers and Wikoff voted in the negative—12 nays; consequently said motion was carried.

Mr. MAYO moved for the adoption of the section as amended.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Brazeale, Brent, Brumfield, Burton, Cade, Cènas, Chambliss, Chinn, Claiborne, Covillion, Culbertson, Derbes, DuBouchel, Dunn, Eustis, Garrett, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Winchester and Winder voted in the affirmative—53 yeas; and

Messrs. Briant, Conrad of Orleans, Conrad of Jefferson, Downs, Guion, King, Labauve, Preston and Wikoff voted in the negative—9 nays; consequently said motion was carried,. and the section as amended was adopted.

Section — was taken up, viz :

SEC. 4. The fund arising from the rents or sales which may hereafter be made, of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and of any land that may hereafter be granted for that purpose, and any interest that may accrue upon such funds, shall be inviolably applied to the use specified, or that may be specified in the grant.

Mr. MAYO offered as a substitute for said section, the following, and the same was adopted.

"All moneys arising from the sales which have been or may hereafter be made, of any lands heretofore granted by the United States to this State for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund; the interest of which at six per cent. per annum, shall be inviolably appropriated to the support of a seminary of learning for the promotion of literature, and the arts and sciences; and no law shall ever be made authorizing said fund to be divested to any other use than to the establishment and improvement of said seminary of learning."

Mr. EUSTIS called up the project offered by him, viz :

An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: One of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the Medical College of Louisiana, as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law for its further organization and government.

Mr. CHINN moved to lay the above on the table indefinitely.

The yeas and nays being called for,

Messrs. *Aubert*, *Chinn*, *Conrad* of Orleans, *Covillion*, *Downs*, *Hudspeth*, *Hynson*, *Kenner*, *Lewis*, *McCallop*, *McRae*, *Porter*, *Prescott* of St. Landry, *Preston*, *Read*, *Scott* of Feliciana, *Sellers*, *Stephens*, *Wikoff* and *Winder* voted in the affirmative —20 yeas; and

Messrs. *Beatty*, *Benjamin*, *Bourg*, *Brazeale*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Cade*, *Cènas*, *Chambliss*, *Claiborne*, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Du-*

Bouchel, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Humble*, *King*, *Labauve*, *Legendre*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Soulé*, *Splane*, *Taylor* of Assumption, *Taylor* of St. Landry, *Trist*, *Voorhies*, *Waddill*, *Wederstrandt* and *Winchester* voted in the negative—43 nays; consequently said motion was lost.

Mr. MAYO offered the following additional proviso, and the same was accepted by Mr. Eustis, viz:

"*Provided*, that the legislature shall be under no obligation to contribute to the establishment or support of said University, by appropriations."

Mr. WINDER moved to amend said proviso, by striking out the words "be under no obligation," and insert in lieu thereof the words "not have power."

The yeas and nays being called for,

Messrs. *Aubert*, *Brumfield*, *Carriere*, *Hudspeth*, *Hynson*, *Lewis*, *McCallop*, *Read*, *Scott* of Feliciana, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Wikoff* and *Winder* voted in the affirmative—15 yeas; and

Messrs. *Beatty*, *Benjamin*, *Bourg*, *Brent*, *Briant*, *Burton*, *Cade*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *DuBouchel*, *Dunn*, *Eustis*, *Garrett*, *Guion*, *Humble*, *Kenner*, *King*, *Labauve*, *Legendre*, *McRae*, *Marigny*, *Mayo*, *Mazureau*, *Peets*, *Porter*, *Prescott* of St. Landry, *Preston*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Madison, *Soulè*, *Splane*, *Trist*, *Voorhies*, *Waddill*, *Wadsworth*, *Wederstrandt* and *Winchester* voted in the negative—46 nays; consequently said motion was lost.

Mr. MAYO moved for the adoption of the project as amended, viz:

An university shall be established in the city of New Orleans; it shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

It shall be called the University of Louisiana; and the Medical College of Louisiana as at present organized, shall constitute the faculty of medicine.

The legislature shall provide by law, for its further organization and government.

Provided, That the legislature shall be under no obligation to contribute to the establishment or support of said University, by appropriations.

Which motion prevailed.

On motion of Mr. DUNN, the vote rejecting the first section of the report of the committee on education, was re-considered, and the same was taken up, viz:

SEC. 1. The governor shall nominate, and by and with the advice and consent of the senate, appoint a superintendent of education, who shall hold his office for two years; whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

Mr. DUNN moved for the adoption of said section.

The yeas and nays being called for,

Messrs. *Beatty*, *Bourg*, *Brent*, *Briant*, *Brumfield*, *Burton*, *Carriere*, *Cénas*, *Chambliss*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Covillion*, *Culbertson*, *Derbes*, *DuBouchel*, *Dunn*, *Eustis*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *King*, *Legendre*, *Lewis*, *Marigny*, *Mayo*, *Mazureau*, *Porter*, *Prescott* of St. Landry, *Pugh*, *Read*, *Roman*, *Roselius*, *St. Amand*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Taylor* of St. Landry, *Voorhies*, *Wadsworth*, *Wederstrandt*, *Winchester* and *Winder* voted in the affirmative—47 yeas; and

Messrs. *Aubert*, *Benjamin*, *Cade*, *Conrad* of Jefferson, *Guion*, *Kenner*, *Labauve*, *McCallop*, *Peets*, *Preston*, *Soulè*, *Stephens*, *Trist*, *Waddill* and *Wikoff* voted in the negative—15 nays; consequently said motion was carried, and the section was adopted.

On motion of Mr. SPLANE, the vote adopting the fifth section of the judiciary, was re-considered, and the same was taken up, viz:

SEC. 5. The supreme court shall hold its sessions in the city of New Orleans, from the first Monday of the month of November, to the end of the month of June, inclusive. The legislature shall have the power to fix the sessions elsewhere during the rest of the year. Until otherwise provided for, the sessions shall be held as heretofore.

Appeals from the parishes of Jackson, Union, Morehouse, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas and Concordia shall, until otherwise provided, be returnable to New Orleans.

Mr. SPLANE moved to amend said sec-

tion by inserting at the end of the proviso, the words "and the parish of St. Mary:" which amendment was adopted.

Mr. CADE moved to amend said section, by striking out the words "New Orleans," and insert in lieu thereof the words "seat of government;" which motion was lost.

Mr. BEATTY moved to amend said section, by strking out the proviso, so that the section may read as originally presented by the committee, viz :

SEC. 1. The judicial power shall be vested in a supreme court, in district courts to be established throughout the State, in justices of the peace, and in such other courts in the city of New Orleans as the legislature may, from time to time, direct.

The yeas and nays being called for,

Messrs. *Beatty, Benjamin, Bourg, Briant, Brumfield, Carriere, Chinn, Claiborne, Conrad* of Jefferson, *Culbertson, Derbes, Downs, Dunn, Eustis, Garcia, Guion, Hudspeth, Humble, Kenner, Legendre, Lewis, Marigny, Mazureau, Preston, Pugh, Roman, Roselius, Saunders, Scott* of Baton Rouge, *Sellers, Soulé, Splane, Taylor* of Assumption, *Taylor* of St. Landry, *Trist Voorhies, Wadsworth, Wederstrandt, Wikoff, Winchester* and *Winder* voted in the affirmative—41 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Chambliss, Conrad* of Orleans, *Covillion, DuBouchel, Garrett, King, Labauve, McCallop, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Read, St. Amand, Scott* of Feliciana, *Scott* of Madison, *Stephens* and *Waddill* voted in the negative—24 nays ; consequently said motion was carried.

Mr. BRENT offered the following amendment, viz:

"Until otherwise provided for, the appeals from the parishes of Rapides, Avoyelles, Natchitoches, Sabine, DeSoto, Bossier, Caddo and Claiborne shall be returnable as heretofore."

On a question of order,

The CHAIR, (Mr. Taylor of Assumption in the chair) decided the amendment to be out of order.

Mr. BRENT appealed from the decision of the chair; and the question being put, "shall the decision of the chair be sustained?" and the yeas and nays being called for, (Mr. Miles Taylor in the chair,)

Messrs. *Aubert, Beatty, Bourg, Benjamin, Briant, Carriere, Chambliss, Chinn, Claiborne, Conrad* of Jefferson, *Culbertson, Derbes, Downs, DuBouchel, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, McCallop, Marigny, Mazureau, Preston, Pugh, Read, Roman, Roselius, St. Amand, Saunders, Scott* of Baton Rouge, *Scott* of Madison, *Sellers, Soule, Splane, Taylor* of St. Landry, *Trist, Voorhies, Wederstrandt, Wadsworth, Wikoff, Winchester* and *Winder* voted in the affirmative—48 yeas; and

Messrs. *Brazeale, Brent, Burton, Cade, Conrad* of Orleans, *Covillion, Humble, Hynson, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Scott* of Feliciana, *Stephens* and *Waddill* voted in the negative—17 nays; consequently the decision of the chair was maintained.

Mr. BRENT, having voted in the majority, moved to reconsider the vote reconsidering the fifth section, under the motion of Mr. Splane.

On a question of order, the Chair, (Mr. Taylor of Assumption in the chair) decided the motion to be in order.

Mr. BEATTY appealed from the decision of the chair; and the question being put, "shall the decision of the chair be sustained?" the same was sustained.

The yeas and nays were then called for on the motion of Mr. Brent to reconsider, and

Messrs. Benjamin, Brazeale, Brent, Briant, Burton, Cade, Chambliss, Chinn, Conrad of Orleans, *Covillion, Culbertson, DuBouchel, Downs, Garrett, Hudspeth, Humble, Hynson, Kenner, King, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Read, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of St. Landry, *Trist, Waddill, Wederstrandt* and *Wikoff* voted in the affirmative—39 yeas; and

Messrs. *Aubert, Beatty, Brumfield, Claiborne, Conrad* of Jefferson, *Derbes, Dunn, Garcia, Guion, Legendre, Marigny, Pugh, Roman, Roselius, Saunders, Splane, Voorhies, Wadsworth, Winchester* and *Winder* voted in the negative—20 nays; consequently said motion was carried.

Mr. GARRETT moved for the reconsideration of the vote adopting the eleventh

section of the judiciary; which motion was lost.

Mr. CLAIBORNE moved to reconsider the first section of the judiciary. The yeas and nays being called for,

Messrs. *Briant*, *Cénas*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Culbertson*, *Derbes*, *Marigny*, *Porter*, *Pugh*, *Roselius*, *Saunders*, *Scott* of Feliciana, *Taylor* of Assumption, *Voorhies* and *Wadsworth* voted in the affirmative—16 yeas; and

Messrs. *Aubert*, *Benjamin*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Chambliss*, *Chinn*, *Downs*, *DuBouchel*, *Dunn*, *Eustis*, *Garrett Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *King*, *Labauve*, *Legendre*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Prescott* of St. Landry, *Preston*, *Read*, *Roman*, *Scott* of Baton Rouge, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Taylor* of St. Landry, *Trist*, *Waddill*, *Wederstrandt Wikoff* and *Winchester* voted in the negative—42 nays; consequently said motion was lost.

Mr. HUMBLE moved to reconsider the vote adopting the section removing the seat of government from the city of New Orleans. The yeas and nays being called for,

Messrs. Benjamin, Briant, Cenas, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Downs, DuBouchel, Eustis, Garrett, Humble, Legendre, Mayo, Marigny, Peets, Porter, Prescott of St. Landry, Preston, Roman, Roselius, Splane, Taylor of St. Landry, Voorhies and Wadsworth voted in the affirmative—25 yeas; and

Messrs. Aubert, Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Chinn, Chambliss, Dunn, Guion, Hudspeth, Hynson, Kenner, King, Labauve, Lewis, McCallop, McRae, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Madison, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Trist, Waddill Wederstrandt, Wikoff, Winchester and Winder voted in the negative—34 nays; consequently said motion was lost.

Mr. CONRAD of Orleans moved to reconsider the vote rejecting the additional section offered by Mr. Eustis, providing that on nominations for judicial officers, after the first appointment under this constitution, if the senate shall advise the reappointment of the incumbent, he shall be reappointed.

The yeas and nays being called for,

Messrs. Beatty, Benjamin, Briant, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Derbes, Dunn, Eustis, Garcia, Garrett, Guion, Hudspeth, King, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, Saunders, Taylor of St. Landry, Voorhies, Wadsworth, Wikoff, Winchester and Winder voted in the affirmative—29 yeas; and

Messrs. Aubert, Brazeale, Brent, Briant, Brumfield, Cade, Chambliss, Covillion, Downs, DuBouchel, Humble, Hynson, Kenner, Labauve, Legendre, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Waddill and Wederstrand, voted in the negative—33 nays; consequently said motion was lost.

Mr. GARCIA moved to reconsider the vote fixing the apportiontment of the parish of St. John the Baptist. The yeas and nays being called for,

Messrs. Briant, Claiborne, Conrad of Orleans, Conrad of Jefferson, Dunn, Derbes, Garcia, Kenner, Legendre, Marigny, Mazureau, Pugh, Roman, Roselius, Saunders, Wadsworth and Winchester voted in the affirmative —17 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Cenas, Chambliss, Chinn, Covillion, Downs, DuBouchel Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, King, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Splane, Stephens, Taylor of St. Landry, Trist, Voorhies, Waddill, Wederstrandt, Wikoff and Winder voted in the negative—41 nays; consequently said motion was lost.

On motion, the Convention adjourned till to-morrow at nine o'clock, a. m.

FRIDAY, May 9, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. NICHOLSON opened the proceedings with prayer.

On motion of Mr. PORTER the vote rejecting the twenty-seventh section of the

bill of rights was reconsidered, and said section was taken up, viz:

SEC. 27. The legislature shall have power to extend this Constitution, and the jurisdiction of this State over all the territory which may hereafter be ascertained to be within her limits, or over any territory acquired by compact with any State, or with the United States, the same being done by consent of the United States."

Mr. PORTER moved for the adoption of said section; the yeas and nays being called for,

Messrs. *Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Dunn, Eustis, Garret, Hudspeth, Humble, Hynson, Labauve, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott* of St. Landry, *Pugh, Read, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Splane, Stephens, Taylor* of St. Landry, *Trist, Voorhies, Waddill, Wederstrandt, Wikoff* and *Winder* voted in the affirmative—38 yeas, and

Messrs. *Aubert, Beatty, Briant, Derbes, Kenner, Legendre, Mazureau, Roman, Sellers* and *Taylor* of Assumption voted in the negative—10 nays; consequently said section was adopted, and the same was transferred to the general provisions.

Mr. PORTER agreeably to notice moved to reconsider the vote adopting the section offered by Mr. Taylor of Assumption, relative to the acquiring of residence in this State. The yeas and nays being called for,

Messrs. *Benjamin, Brent, Culbertson, Derbes, Dunn, Eustis, Guion, Humble, Porter, Prescott* of St. Landry, *Read, Splane, Waddill* and *Wederstrandt* voted in the affirmative—14 yeas; and

Messrs. *Aubert, Beatty, Bourg, Brazeale, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Garrett, Hudspeth, Hynson, Kenner, Labauve, Legendre, Lewis, McCallop, Mayo, Mazureau, Peets, Prudhomme, Pugh, Roman, Saunders, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens Taylor* of Assumption, *Taylor* of St. Landry, *Trist, Voorhies, Wikoff* and *Winder* voted in the negative—38 nays; consequently the said motion was lost.

On motion of Mr. GARCIA the reconsideration of the section on duelling was postponed until twelve o'clock m., this day.

On motion of Mr. DUNN the schedule was taken up, viz;

That no inconvenience may arise from the alterations and amendments made in the Constitution of this State and in order to carry the same into complete operation and effect it is hereby declared and ordained:

That all laws of the State in force at the time of making the said alterations and amendments, 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.

The governor, secretary of State, judges and all other officers, both civil and military, shall continue in the exercise of the duties of their respective departments, until superceded and their successors duly inducted into office, pursuant to the provisions contained in the foregoing alterations and amendments.

On motion of Mr. BENJAMIN, the above report was laid on the table subject to call.

It being twelve o'clock m., Mr. GARCIA moved for the reconsideration of the vote adopting the section on duelling. The yeas and nays being called for

Messrs. *Aubert, Benjamin, Bourg, Briant, Cénas, Claiborne, Conrad* of Orleans, *Conrad* of Jefferson *Culbertson, Derbes, Du Buochel, Garcia, Kenner, Labauve, Legendre, Marigny, Mazureau, Porter, Prescott* of St. Landry, *Prudhomme, Roman, St. Amand, Saunders, Splane, Taylor* of Assumption, *Trist, Wadsworth, Wederstrandt Wikoff* and *Winchester* voted in the affirmative——30 yeas; and

Messrs. *Beatty, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Chinn, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Preston, Pugh, Read, Roselius, Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers, Stephens, Taylor* of St. Landry, *Voorhies, Waddill* and *Winder* voted in the negative—34 nays; consequently said motion was lost.

Mr. EUSTIS was excused from serving on the committee of enrolment, and the president appointed Mr CENAS in his stead.

On motion the report of the committee

of revision on the judiciary article was taken up, viz:

Sec. 1. The judicial power shall be vested in a supreme court, in district courts and in justices of the peace.

Sec. 2. The supreme court shall have appellate jurisdiction only except in cases hereinafter provided, which jurisdiction shall extend to all cases where the matter in dispute shall exceed three hundred dollars.

Sec. 3. The supreme court shall be composed of one chief justice, and of three associate justices, á majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars annually, and each of the associate judges shall receive a salary of five thousand five hundred dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed by the governor, by and with the advice and consent of the senate, for the term of eight years.

Sec. 4. When the first appointments are made under this constitution, the chief justice shall be appointed for eight years, one of the associate judges for six years, one for four years, and one for two years, and in the event of the death, resignation or removal of any of the said judges before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of this term, so that the term of service of no two of said judges shall expire at the same time.

Sec. 5. The supreme court shall hold its sessions in New Orleans, from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

Sec. 6. The supreme court and each of the judges thereof shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process in all cases in which they may have appellate jurisdiction.

Sec. 7. The appellate jurisdiction of the supreme court shall extend to all cases in which the constitutionality or legality of any tax, toll, or impost of any kind or nature soever shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures and penalties imposed by municipal corporations.

Sec. 8. The supreme court shall have appellate jurisdiction in criminal cases on questions of law alone, in all cases in which the punishment of death or hard labor may be inflicted, or a fine exceeding three hundred dollars is actually imposed.

Sec. 9. In all cases in which the judges shall be equally divided in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinion in writing.

Sec. 10. The judges by virtue of their office shall be conservators of the peace throughout the State. The style of all process shall be "the State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude against the peace and dignity of the same.

Sec. 11. The judges of all courts within this State shall as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which their judgment is founded.

Sec. 12. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings except for the payment for such fees to ministerial officers as may be established by law.

Sec. 13. The supreme court and district court, and the several judges thereof, are prohibited from exercising any jurisdiction or performing any duties but such as are judicial, and from receiving any fees of office, and no other functions or duties shall ever be attached by law to the office of judge but such as are judicial.

Sec. 14. The judges of all courts shall be liabe to impeachment, but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly. In every such case, the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted in the journal of each house.

Sec. 15. There shall be an attorney general for the State, and as many other prosecuting attornies for this State as may

be hereafter found necessary. The said attornies shall be appointed by the governor, with the advice and approbation of the senate, for the term of two years. Their duties shall be determined by law.

Sec. 16. The first legislature assembled under this constitution, shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to re-organization every sixth year hereafter.

The number of districts shall not be less than twelve, nor more than twenty.

For each district, one judge, learned in the law, shall be appointed, except in the districts in which the cities of New Orleans and Lafayette are situated, in which the legislature may establish as many district courts as the public interest may require.

Sec. 17. Each of the said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, which salary shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State six years next preceding his appointment, and have practised law therein for the space of five years.

Sec. 18. The judges of said district courts shall hold their offices for the term of six years, and shall be appointed by the governor, by and with the advice and consent of the senate. The judges first appointed shall be divided by lot into three classes, as nearly equal as may be, and the term of office of the judges of the first class shall expire at the end of two years; of the second class at the end of four years, and of the third class at the end of six years.

Sec. 19. The said district courts shall have general original jurisdiction in all civil cases, when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with succession, their jurisdiction shall be unlimited.

Sec. 20. The legislature shall have power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

Sec. 21. The clerks of the several courts shall be removeable for breach of good behavior, by the judges thereof, subject in all cases, to an appeal to the supreme court.

Sec. 22. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish, for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

Sec. 23. The judges of the supreme court and district courts, provided for in this constitution, shall be appointed and commissioned as soon as possible after this constitution shall take effect, and the legislature shall provide for the removal of all causes now pending in the supreme or other courts of this State, under the constitution of 1812, to the supreme and district courts created by this constitution.

Sec. 24. Clerks in the district courts in this State, shall be elected by the qualified electors in each parish, for the term of four years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

Sec. 25. A sheriff shall be elected in each parish by the qualified voters thereof, who shall hold his office for the term of two years, unless sooner removed. Should a vacancy occur, subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

Sec. 26. All parish officers, not otherwise provided for by this constitution, shall be elected by the qualified electors of the different parishes, in such manner as shall be prescribed by law. *Provided*, that the mode of appointment and tenure of office of all officers in the parish of Orleans shall remain as heretofore, unless otherwise provided for by the legislature.

Mr. Brent, moved to amend the twen-

ty-sixth section by inserting in the proviso before the word "officers," the word "such."

The CHAIR decided the amendment to be out of order.

Mr. PRESCOTT of St. Landry appealed from the decision of the chair, and the question being put shall the decision of the chair be maintained; the yeas and nays being called for,

Messrs. *Aubert*, *Briant*, *Carriere*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Conrad* of Jefferson, *Derbes*, *Downs*, *DuBouchel*, *Dunn*, *Eustis*, *Garcia*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Kenner*, *Labauve*, *Legendre*, *Lewis*, *McRae*, *Marigny*, *Mazureau*, *Peets*, *Pugh*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of St. Landry, *Waddill*, *Wadsworth*, *Wederstrandt*, *Wikoff*, *Winchester* and *Winder* voted in the affirmative—42 yeas; and

Messrs. *Beatty*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Chambliss*, *Covillion*, *Culbertson*, *Hynson*, *McCallop*, *Porter*, *Prescott* of St. Landry, *Preston*, *Read*, *Scott* of Baton Rouge, *Splane*, *Taylor* of Assumption *Trist* and *Voorhies* voted in the negative —19 nays; consequently said motion was lost.

On motion the report of the committee of revision on the legislative departments, was taken up, viz:

SEC. 1. The legislative power of the State shall be vested in two distinct branches, the one to be styled the House of Representatives, the other the Senate, and both "the General Assembly of the State of Louisiana."

SEC. 2. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

SEC. 3. Representatives shall be chosen on the first Monday in November, every two years; and the general assembly shall meet on the third Monday in January next ensuing the election in every second year, unless a different day be appointed by law, and their sessions shall be held at the seat of government. The election shall be completed in one day.

SEC. 4. No person shall be a representative who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States; and has not attained the age of twenty-one years and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

SEC. 5. Elections for representatives for the several parishes or representative districts shall be held at the several election precincts established by law, and which the legislature having in view the convenience of the voters, may from time to time establish; *Provided*, that the Legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

SEC. 6. Representation shall be equal and uniform in this State, and shall forever be regulated and ascertained by the number of qualified electors therein; *Provided*, that each parish shall have at least one representative: and *provided further*, that no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the ratio at the time, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first census to be taken by the State authorities under this Constitution shall be taken in the year 1847, the second in the year 1855: and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law, for the purpose of ascertaining the number of qualified electors in each parish.

At the first regular session of the legislature after the making of each census, the legislature shall apportion the representation amongst the several parishes on the basis of qualified electors as aforesaid. A representative number being fixed, each parish shall have as many representatives as the aggregate number of electors will entitle it to, and an additional representative for any fraction exceeding by one-half the representative number.

That part of the parish of Orleans situated on the left bank of the Missisippi shall be divided into nine representative districts as follows, viz:

1st. First district to extend from the line of the parish of Jefferson, to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district to extend from the

last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district to comprise the residue of the Second Municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of St. Louis street, until it reaches the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district to extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its interseetion with the bayou St. John, thence along the middle of said bayou until it intersects the Metairie road thence along said road until it reaches St. Louis street.

6th. Sixth district to be composed of the residue of the First Municipality.

7th. Seventh district, from the middle Esplanade street to the middle of Champs Elysées street.

8th. Eighth district, from the middle of Champs Elysées street to the middle of Enghein street and Lafayette Avenue.

9th. Ninth district, from the middle of Enghein street and Lafayette Avenue to the lower limits of the parish.

Until the first enumeration shall be made as directed in this section, the parish of Orleans shall be entitled to twenty representatives, to be elected as follows, viz:

Eight by the First Municipality, seven by the Second Municipality, and four by the Third Municipality, to be distributed among the nine representative districts as follows, by allotting to the

First district,	2
Second "	2
Third "	3
Fourth "	3
Fifth "	3
Sixth "	2
Seventh "	2
Eighth "	1
Ninth "	1

And one by that part of the parish on the right bank of the Mississippi.

The parish of Plaquemines,	3
" St. Bernard,	1
" Jefferson,	3
" St. Charles,	1
" St. John the Baptist,	1
" St. James,	2
" Ascension,	2
" Assumption,	3
The parish of Lafourche Interior,	3
" Terrebone,	2
" Iberville,	2
" West Baton Rouge,	1
" East do.	3
" West Feliciana,	2
" East do	3
" St. Helena,	1
" Washington,	1
" Livingston,	1
" St. Tammany,	1
" Point Coupée,	1
" Concordia,	1
" Tensas,	1
" Madison,	1
" Carroll,	1
" Franklin,	1
" St. Mary,	2
" St. Martin,	3
" Vermillion,	1
" Lafayette,	2
" St. Landry,	5
" Calcasieu,	1
" Avoyelles,	2
" Rapides,	3
" Natchitoches,	3
" Sabine,	2
" Caddo,	1
" De Soto,	1
" Ouachita,	1
" Morehouse,	1
" Union,	1
" Jackson,	1
" Caldwell,	1
" Catahoula,	2
" Claiborne,	2
" Bossier,	1
Total,	98

Sec. 7. The house of representatives shall choose its speaker and other officers.

Sec. 8. In all elections for representatives, every free white male citizen of the United States who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. Electors shall in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

Sec. 9. Absence from the State for more than ninety consecutive days, shall interrupt the acquisition of the residence requi-

red in the preceding section, unless the person absenting himself shall be a house-keeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrytng on business shall be actually occupied during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

SEC. 10. No person shall have the right of voting in this State until he has been two years a citizen of the United States: *Provided*, that this section shall not be construed so as to deprive any person of the right of voting who is entitled to that right under the constitution of 1812, at the time of the adoption of this constitution.

SEC. 11. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and in cities and towns divided into election precincts in which he resides.

SEC. 12. The members of the Senate shall be chosen for the term of four years, and when assembled shall have the power to chose its officers every two years.

SEC. 13. The State shall be divided into the following senatorial districts, and the senators to be elected shall be voted for by persons entitled to vote for representatives.

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall compose one senatorial district, and shall elect four senators;

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans lying on the right bank of the river, shall compose one district, with one senator;

The parish of Jefferson shall compose one district, with one senator;

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator;

The parish of St. James shall compose one district, with one senator;

The parish of Ascension shall compose one district with one senator;

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators;

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator;

The parish of East Baton Rouge shall compose one district, with one senator;

The parish of Point Coupée shall compose one district, with one senator;

The parish of Avoyelles shall compose one district, with one senator;

The parish of St. Mary shall compose one district, with one senator;

The parish of St. Martin shall compose one district, with one senator;

The parishes of Lafayette and Vermillion shall compose one district, with one senator;

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators;

The parish of West Feliciana shall compose one district, with one senator;

The parish of East Feliciana shall compose one district, with one senator;

The parishes of St. Helena and Livingston shall compose one district, with one senator;

The parishes of Washington and St. Tammany, shall compose one district, with one senator;

The parishes of Concordia and Tensas shall compose one district with one senator;

The parishes of Carroll and Madison shall compose one district, with one senator;

The parishes of Jackson, Union, Morehouse and Ouachita shall compose one district, with one senator;

The parishes of Caldwell, Franklin and Catahoula shall compose one district, with one senator;

The parish of Rapides shall compose one district, with one senator;

The parishes of Bossier and Claiborne shall compose one district, with one senator;

The parish of Natchitoches shall compose one district, with one senator;

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator;

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken or to another contiguous district at the discretion of the legislature, but shall not be attached to more than one district.

The legislature in every year in which they shall apportion representation in the house of representatives shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans ex-

cepted. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

Sec. 14. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the poplation divided by the number twenty eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. [Single or contiguous parishes shall be formed into districts having a population nearest possible to the number entitling a district to a senator; and if in the apportionment to be made, a parish or district may be found to be deficient of, or to exceed by one-fifth, the ratio, then a district may be formed having not more than two senators, but not otherwise.]*

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After the census has been taken, and the general assembly convened, the legislature shall not pass any laws until an apportionment is made.

Sec. 15 At the session of the general assembly, after this constitution takes effect, the senators shall be divided by lot as equally as can be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them.

Sec. 16. No person shall be a senator, who at the time of his election, has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and one year in the district in which he may be chosen.

Sec. 17. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

Sec. 18. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorised by law to compel the attendance of absent members, in such manner and under such penalties as may be prescribed thereby.

Sec. 19. Each house of the general assembly shall judge of the qualification, election and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

Sec. 20. Each house of the General Assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and with the concurrence of two-thirds expel a member, but not a second time for the same offence.

Sec. 21. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of two of them, be entered on the journal.

Sec. 22. Each house may punish by imprisonment any person not a member, for disrespectful and disorderly behavior, in its presence or for obstructing any of its proceedings; *provided*, such imprisonment shall not exceed ten days for any one offence.

Sec. 23. Neither house, during the session of the general assembly, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 24. The members of the general

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*Project as a substitute for the paragraph in brackets.

[When the population of a single parish or of contiguous parishes, exceeds by more than one-fifth, or is not less than one-fifth of the senatorial ratio entitling the said parish or contiguous parishes, to two senators, then the said parish or contiguous parishes shall (may) be formed into one district, with not more than two senators.]

assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses; *provided*, that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alterations shall have been made; *and provided also*, that no session shall extend to a period beyond sixty days to the date from its commencement, and that any legislative action had after the expiration of the said sixty days, shall be null and void, except the session of the first legislature which is to convene after the adoption of this constitution.

Sec. 25. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses; and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 26. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

Sec. 27. No person, while he continues to exercise the functions of a clergyman, priest or teacher of any religious persuasion, society or sect, shall be eligible to the general assembly.

Sec. 28. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any other office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

Sec. 29. No bill shall have the force of a law until on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house, when the bill shall be pending, may deem it expedient to dispense with this rule.

Sec. 30. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills; *provided*, that they shall not introduce any new matter under the color of an amendment which does not relate to raising a revenue.

Sec. 31. The general assembly shall regulate by law, by whom, and in what manner, writs of election shall be issued, to fill the vacancies which may happen in either branch thereof.

Sec. 32. A majority of all the members elected to the senate, shall be required for the confirmation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

Sec. 32. No soldier, seaman or marine in the army of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

On motion, the Convention adjourned till to-morrow, at 9 o'clock.

Note.—Members absent at the call of the roll: Messrs. O'Bryan, Penn and Prescott of Avoyelles absent on leave; Mr. Porche absent on account of illness; and Messrs. Benjamin, Boudousquié, Carriere, Cénas, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garcia, Grymes, Guion, King, Ledoux, Marigny, Prescott of St. Landry, Preston, Prudhomme, Ratliff, Roselius, St. Amand, Soulé, Wikoff and Winder did not answer to their names at the call of the roll.

Saturday, May 10, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel, the Hon. Mr. Stevens, at the request

of the President, opened the proceedings with prayer.

The President submitted a letter from Mr. Bayon, in relation to his compensation as printer to the Convention, and the same was referred to the committee on contingent expenses.

Mr. READ, one of the committee on contingent expenses, submitted the following resolution, and the same was adopted, viz:

"*Resolved*, that the sum of two hundred and sixty-two dollars and fifteen cents be allowed B. M. Norman, bookseller and stationer, and that the committe on contingent expenses be authorised to issue a warrant for the same."

Mr. BRENT submitted the following resolution, and the same was adopted, viz:

"That the committee of revision shall have the power to recommend for correction any inaccuracies that might be discovered in the constitution after the second reading."

Mr. MAYO gave notice that he will, when the judiciary article be taken up for its third reading, move to determine and fix the qualifications of the judges of the supreme court.

On motion, the report of the committee of revision on the article of impeachment was taken up, and the same was adopted, as reported, viz:

ARTICLE FIFTH.

IMPEACHMENT.

SEC. 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachments of the governor, lieutenant governor, attorney general, secretary of State, State treasurer, and the judges of the district courts, shall be tried by the senate; the chief justice of the supreme court, or the senior judge of said court, presiding.

Impeachments of the judges of the supreme court shall be tried by the senate.

The legislature shall provide by law for the trial, punishment and removal from office of all other officers of the State, by indictment or otherwise.

When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 3. Judgments in cases of impeachment shall not extend further than to removal from office and disqualification from holding any office of honor, trust or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial and punishment according to law.

All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions during the pendency and trial of such impeachment; *Provided*, that the appointing power may make a provisional appointment of an officer to replace the suspended officer until the decision shall be made on the impeachment.

On motion the scedule was taken up, viz:

SCHEDULE.

1 That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and in order to carry the same into complete operation and effect, it is hereby declared and ordained:

2. That all laws of this State, in force at the time of making the said alterations and amendments, 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.

3. The governor, secretary of State, judges, and all other officers, both civil and military, shall continue in the exercise of the duties of their respective departments until superceded, and their successors duly inducted into office, pursuant to the provisions contained in the foregoing alterations and amendments.

Mr. SAUNDERS submitted as a substitute for the above, the following, and the same was adopted, viz:

"The constitution adopted in convention, January second, 1812, is declared to be superceded by the alterations and amendments herein adopted; and in order to carry the same into operation and effect, it is hereby declared and ordained

That all laws of this State in force at the time of the adoption of this constitution, and not inconsistent therewith, and all rights, actions and 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.

The governor, secretary of State, judges, and all other officers, civil and military, shall continue in the exercise of the duties of their respective departments until superceded under the authority of this constitution.

Provided, that nominations and appointments to office, under this constitution, shall be made by the governor to be elected under its authority."

Mr. SAUNDERS offered the following additional section; the same was adopted, and ordered to be transferred to the general provisions, viz:

"A treasurer of the State shall be elected biennially, by the joint ballot of the two houses of the general assembly."

Mr. KENNER moved to take up the majority report, on submitting the constitution to the people. The yeas and nays being called for,

Messrs. Beatty, Bourg, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Ledoux, Legendre, Lewis, McCallop, Marigny, Mayo, Porter, Prescott of St. Landry, Prudhomme, Read, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Winchester and Winder voted in the affirmative—43 yeas; and

Messrs. Brazeale, Brent, Covillion, Du Bouchel, Eustis, Garrett, Humble, Hynson, Peets, Splane, Waddill and Wederstrandt voted in the negative—11 nays; consequently said motion was carried, and the report was taken up, viz:

REPORT.

Ordered, that immediately after the adjournment of this Convention, the governor shall issue his proclamation, directing the several officers of this State authorized by law to hold elections for members of the general assembly, to open and hold an election in every parish in the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this amended Constitution. And it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this amended constitution. Each voter shall express his opinion by depositing in the ballot box a ticket, whereon shall be written "the constitution accepted," or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the commissioners designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of State, in conformity to the provisions of the existing law upon the subject of elections.

Ordered, that upon the receipt of the said returns, it shall be the duty of the governor, the secretary of State, the attorney general and the State treasurer, in the presence of all such persons as may choose to attend, to compare the votes given in said election, for the ratification or rejection of this amended constitution; and if it shall appear from said returns, that a majority of all the votes given in said election is for ratifying the amended constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this amended constitution shall be ordained and established as the constituion of Louisiana. But whether the amended constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the said election, showing the number of votes cast for and against the said constitution.

Ordered, that should this amended constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature elected under the old constitution to be dissolved, and directing the several officers of the State, authorised by law to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846) for governor, lieutenant governor, members of the general assembly, and all other officers whose election is provided for, pursuant to the provisions of this amended constitu-

ion. And the said election shall be conducted, and the returns thereof made, in conformity with the existing laws upon the subject of State elections.

Ordered, that the general assembly elected under this amended constitution, shall convene at the State house, in the city of New Orleans, upon the second Monday of February next, after the election, (1846) and that the governor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

Mr. GUION moved to amend the first section of said report by striking out in the fifteenth line the word "November," and insert in lieu thereof the word "July."

The yeas and nays being called for,

Messrs. Beatty, Bourg, Briant, Chinn, Dunn, Guion, Hudspeth, King, Legendre, Lewis, Read, Sellers, Taylor of Assumption, Taylor of St. Landry and Winder voted in the affirmative—15 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Cenas, Chambliss, Claiborne, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Downs, DuBouchel. Eustis, Garcia, Garrett, Humble, Hynson, Kenner, Labauve, Ledoux, McCallop, McRae, Marigny, Mayo, Peets, Porter, Prescott of St. Landry, Prudhomme, Roman, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Voorhies, Waddill, Wederstrandt and Winchester voted in the negative—41 nays; consequently said motion was lost.

Mr. GUION then moved to amend said section by striking out, commencing in the fifteenth line, the words "and under this amended constitution."

The yeas and nays being called for,

Messrs. Aubert, Beatty, Broudousquie, Bourg, Briant, Cade, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, King, Labauve, Legendre, Lewis, Marigny, Mazureau, Pugh, Roman, Roselius, Sellers, Taylor of St. Landry, Wadsworth and Winder voted in the affirmative —31 yeas, and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, DuBouchel, Eustis, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Porter; Prescott of St. Landry, Preston, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Splane, Stephens, Taylor of Assumption, Voorhies, Waddill, Wederstrandt, and Winchester voted in the negative—32 nays; consequently said motion was lost.

Mr. DOWNS moved to amend said section by inserting after the word "commissioners," in the 25th line, the words "and parish judges;" which motion prevailed.

Mr. DOWNS moved that said report be laid on the table indefinitely.

The yeas and nays being called for,

Messrs. Downs, Humble and Waddill voted in the affirmative—3 yeas; and

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Chambliss, Cénas, Chinn, Covillion, Conrad of New Orleans, Claiborne, Culbertson, Derbes, Dunn, DuBouchel, Eustis, Garcia, Guion, Hudspeth, Hynson, Kenner, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Pugh, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the negative—59 nays; consequently said motion was lost.

Mr. LEWIS moved that the word "amended" be stricken out wherever it precedes the word "constitution;" which motion prevailed.

Mr. PRESTON moved to amend said section by striking out the words "by depositing in the ballot box a ticket whereon shall be written, the constitution accepted or the constitution rejected," and insert in lieu thereof "orally for or against the constitution."

The yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Downs, Eustis, Garrett, Humble, Hynson, Ledoux, McRae, Mayo, Porter, Prescott of St. Landry, Preston, Read, Scott of Feliciana, Taylor of St. Landry, Wadsworth and Wederstrandt voted in the affirmative —24 yeas; and

Messrs. Aubert, Benjamin, Boudousquie,

Bourg, Briant, Cénas, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Dunn, Garcia, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, Marigny, Mazureau, Peets, Pugh, Roman, Roselius, Saunders, Scott of Baton Rouge, Sellers, Soulé, Stephens, Taylor of Assumption, Voorhies, Waddill, Winchester and Winder voted in the negative—35 nays; consequently said motion was lost.

Mr. BRENT moved for the adoption of the first order.

The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquié, Bourg, Brazeale, Brent, Briant, Brumfield, Burton, Cade, Carriere, Cénas, Chambliss, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Labauve, Legendre, Ledoux, Lewis, McRae, Marigny, Mayo, Mazureau, Peets, Porter, Prescott of St. Landry, Preston, Pugh, Read, Roman, Roselius, Saunders, Scott of Baton Rouge, Scott of Feliciana, Sellers Soulé, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Wederstrandt, Winchester and Winder voted in the affirmative—57 yeas; the vote being unanimous, consequently the first order was adopted, as follows, viz:

Ordered, That immediately after the adjournment of this Convention, the governor shall issue his proclamation, directing the several officers of this State, authorized by law to hold elections for members of the general assembly, to open and hold an election in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution. And it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this constitution. Each voter shall express his opinion by depositing in the ballot box a ticket whereon shall be written "the constitution accepted" or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the parish judges and commissioners designated to preside over the same shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of State, in conformity to the provisions of the existing law upon the subject of elections.

On motion, the second order was taken up, viz:

Ordered, That upon the receipt of the said returns, it shall be the duty of the governor, the secretary of State, the attorney general and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given in said election for the ratification and rejection of this constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of Louisiana. But whether the constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the said election, showing the number of votes cast for and against the said constitution.

Mr. CONRAD of Orleans moved to amend said order by inserting after the word "cast," in the twentieth line, the word "in each parish," which motion prevailed, and the order as amended was adopted, viz:

Ordered, That upon the receipt of the said returns, it shall be the duty of the governor, the secretary of State, the attorney general and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given in said election for the ratification and rejection of this constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of Louisiana. But whether the constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the said election, showing the number of votes cast in each parish for and against the said constitution.

On motion, the third order was taken up, viz:

Ordered, That should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State, authorized by law, to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846) for governor, lieutenant governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution. And the said election shall be conducted, and the returns thereof made in conformity with the existing laws upon the subject of State elections.

Mr. LEDOUX moved to amend said order by striking out the word "January."

The yeas and nays being called for,

Messrs. Cénas, Claiborne, Covillion, Downs, Eustis, Garcia, Garrett, Humble, Labauve, Ledoux, Marigny, Prescott of St. Landry, Scott Baton of Rouge, Soulé, Taylor of Assumption and Voorhies voted in the affirmative—16 yeas; and

Messrs. Aubert, Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Chambliss, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Guion, Hudspeth, Hynson, Kenner, Legendre, Lewis, McCallop, McRae, Mayo, Peets, Porter, Preston, Pugh, Read, Roman, Roselius, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of St. Landry, Waddill, Wederstrandt, Winchester and Winder voted in the negative—40 nays; consequently said motion was lost, and the order as reported was adopted.

On motion, the fourth order was taken up and adopted, viz:

Ordered, That the general assembly, elected under this constitution, shall convene at the state house, in the city of New Orleans, upon the second Monday of February next, after the election, (1846); and that the governor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

On motion, the report as amended was adopted, to wit:

Ordered, That immediately after the adjournment of this Convention, the governor shall issue his proclamation, directing the several officers of this State, authorized by law to hold elections for members of the general assembly, to open and hold an election in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution. And it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this constitution. Each voter shall express his opinion by depositing in the ballot box a ticket whereon shall be written "the constitution accepted" or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the commissioners and parish judges designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of State, in conformity to the provisions of the existing law upon the subject of elections.

Ordered, That upon the receipt of the said returns, it shall be the duty of the governor, the secretary of state, the attorney general and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given in said election for the ratification and rejection of this constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of Louisiana. But whether the constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the said election, showing the number of votes cast in each parish for or against the said constitution.

Ordered, That should this constitution be accepted by the people, it shall also be

the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution to be dissolved, and directing the several officers of the State, authorised by law, to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846,) for governor, lieutenant governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution. And the said election shall be conducted, and the returns thereof made in conformity with the existing laws upon the subject of State elections.

Ordered, That the general assembly elected under this coustitution, shall convene at the state house, in the city of New Orleans, upon the second Monday of February next, after the election, (1846); and that the governor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

Mr. READ, on behalf of the committee on contingent expenses, submitted the following report, viz:

The committee on contingent expenses have carefully examined the claims presented by Jerome Bayon, and by Messrs. Besangon, Ferguson and Co., and have come to the conclusion that the sum of three thousand dollars should be allowed to Mr. Jerome Bayon, in full payment for all printing (including subscription for the paper) already done and remaining to be done; and that the sum of three thousand three hundred and sixty dollars should be allowed Messrs. Besangon, Ferguson & Co., in full payment for all printing (including subscription for paper) already done and remaining to be done; and the committee recommend that said sums be paid to the printers, deducting therefrom the sum of five hundred dollars paid to Mr. Bayon, and the sum of twelve hundred and fifty dollars paid to Messrs. Besangon, Ferguson & Co., and that the said committee be authorised to issue a warrant in favor of Mr. Jerome Bayon, for the sum of two thousand five hundred dollars, and a warrant in favor of Messrs. Besangon, Ferguson & Co., for the sum of two thousand one hundred and ten dollars,—these being the amounts allowed after making the above deductions.

(Signed,) A. READ,
J. P. BENJAMIN,
L. SAUNDERS,
C. ROSELIUS.

Mr. BEATTY offered the following resolution, and the same was adopted, viz:

Resolved, That the printers be furnished with copies of all the articles of the constitution, to be printed for the use of the Convention, by Monday next.

On motion, the Convention adjourned till 9 o'clock, a. m.

NOTE.—Members absent at the call of the roll: Messrs. O'Bryan, Penn and Prescott of Avoyelles absent on leave; Mr. Porche absent on account of sickness, and Messrs. Benjamin, Boudousquie, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Downs, Eustis, Garcia, Grymes, Guion, King, Labauve, Ledoux, Marigny, Ratliff, Roselius, St. Amand, Trist, Wikoff and Winchester did not answer to their names at the call of the roll.

MONDAY, May 12, 1845.

The Convention met pursuant to adjournment.

In the absence of a minister of the gospel the Hon. Mr. STEPHENS, at the request of the president, opened the proceedings with prayer.

Mr. EUSTIS, chairman of the committee of revision, reported the preamble, and the same was adopted as reported, viz:

"We, the people of the State of Louisiana, do ordain and establish this constitution."

The committee of revision reported the general provisions, for a second reading; the same was read, and adopted as reported, viz:

TITLE IV.

GENERAL PROVISIONS.

ART. 89. Members of the general assembly, and all officers, before they enter upon the duties of their offices shall take the following oath or affirmation:

I (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding,

agreeably to the constitution and laws of the United States, and of this State; and I do further solemnly swear (or affirm) that since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending, so help me God."

ART. 90. Treason against the State shall consist only in levying war against, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given, or offered a bribe to procure his election or appointment.

ART. 92. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult or other improper practice.

ART. 93. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

ART. 94. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbritration.

ART. 95. All civil officers for the State at large shall reside within the State, and all district or parish officers within their districts or parishes, and shall keep their offices at such places therein as may be required by law. No person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election, or appointment, to have acquired the right of voting in such parish; and no person shall be elected or appointed to any district office, who shall not have resided in such district, or an adjoining district, long enough before such appointment or election, to have acquird the right of voting in the same.

ART. 96. The duration of all offices not fixed by this constitution shall never exceed four years.

ART. 97. All civil officers, except the governor, and judges of the supreme and district courts, shall be removeable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

ART. 98. Absence on business of this State or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

ART. 99. It shall be the duty of the legislature to provide by law for deductions from the salaries of public officers who may be guilty of a neglect of duty.

ART. 100. The legislature shall point out the manner in which a person coming into the State shall declare his residence.

ART. 101. In all elections by the people the vote shall be by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 102. No member of congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

ART. 103. The laws, the public records and the judicial and legislative written proceedings of the State shall be promulgated, preserved and conducted in the language in which the constitution of the United States is written.

ART. 104. The secretary of the senate and clerk of the house of representatives shall be conversant with the French and

English languages; and members may address either house in the French or English language.

ART. 105. The general assembly shall direct by law how persons who are now or may hereafter become sureties for public officers may be discharged from such suretyship.

ART. 106. No power of suspending the laws of this State shall be exercised, unless by the legislature or its authority.

ART. 107. Prosecutions shall be by indictment, or information. The accused shall have a speedy public trial by an impartial jury of the vicinage; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right, unless he shall have fled from justice, of meeting the witnesses face to face, and shall have compulsory process for obtaining witneses in his favor.

ART. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

ART. 109. No *ex-post facto* law, nor any law impairing the obligation of contracts, shall be passed; nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

ART. 110. The press shall be free. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The general assembly which shall meet after the first election of representatives under this constitution, shall, within the first month after the commencement of the session, designate and fix the seat of government, at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route; and if on the Mississippi river, by the meanders of the same; and when so fixed, it shall not be removed without the consent of four-fifths of the members of both houses of the general assembly. The sessions shall be held in New Orleans until the end of the year 1848.

ART. 113. The legislature shall not pledge the faith of the State for the payment of any bonds, bills or other contracts or obligations for the benefit or use of any person or persons, corporation or body politic whatever. But the State shall have the right to issue new bonds in payment of its outstanding obligations or liabilities, whether due or not; the said new bonds, however, are not to be issued for a larger amount or at a higher rate of interest, than the original obligations they are intended to replace.

ART. 114. The aggregate amount of debts hereafter contracted by the legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war to repel invasions or suppress insurrections, unless the same be authorised by some law, for some single object or work, to be distinctly specified therein; which laws shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed, and said law shall be irrepealable until principle and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

ART. 115. The legislature shall provide by law for a change of venue in civil and criminal cases.

ART. 116. No lottery shall be authorized by this State, and the buying or selling of lottery tickets within this State is prohibited.

ART 117. No divorce shall be granted by the legislature.

ART. 118. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

ART. 119. No law shall be revived or amended by reference to its title; but in such case, the act revived, or section amended, shall be re-enacted and pubished at length.

ART. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws; but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint stock company.

Art. 122. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

Art. 123. Corporations shall not be created in this State by special laws except for political or municipal purposes; but the Legislature shall provide by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

Art. 124. From and after the month of January 1890, the Legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

Art. 125. The General Assembly shall never grant any exclusive privilege or monopoly, for a longer period than twenty years.

Art. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace.

Art. 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property, on which taxes may be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

Art. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the legislature; *provided*, that the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

Art. 129. The legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

Art. 130. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this constitution.

Art. 131. The legislature shall have power to extend this constitution, and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

Art. 132. The constitution and laws of this State shall be promulgated in the English and French languages.

The report of the committee of revision on public education was submitted by Mr. Roman, and the same was adopted, viz:

TITLE VII.

PUBLIC EDUCATION.

Art. 133. There shall be appointed a superintendent of public education, who shall hold his office for two years. His duties shall be prescribed by law. He shall receive compensation as the legislature may direct.

Art. 134. The legislature shall establish free public schools throughout the State, and shall provide means for their support by taxation on property or otherwise.

Art. 135. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of six per cent; which interest together with all the rents of the unsold lands, shall be appropriated to the support of such

schools, and this appropriation shall remain inviolable.

Art. 136. All moneys arising from the sale which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which at six per cent per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than to the establishmeht and improvement of said seminary of learning.

Art. 137. An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

Art. 138. It shall be called "the University of Louisiana," and the Medical College of Louisian as at present organized, shall constitute the faculty of medicine.

Art. 139. The legislature shall provide by law, for its further organization and government; but shall be under no obligation to contribute to the establishment or support of said university by appropriations.

Mr. Conrad of Orleans, offered the following section, which was adopted, and the same transferred to the executive department, viz:

"The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for by this constitution; but no person who has been nominated for office, and rejected by the senate, shall be appointed to the same office during the recess of the senate."

Mr. Conrad of Orleans then offered the following addititional section, viz:

"The legislature may delegate to political corporations the power to pass local ordinances; *provided*, that such corporations shall not have power to borrow money or issue their bonds or obligations except for purposes strictly relative to the administration of municipal affairs."

Mr. Wadsworth moved to amend the said section, by adding at the end of the same the words "and for purposes of public education;" which motion prevailed, and the amendment adopted.

Mr. Beatty moved to lay on the table, indefinitely, the section as amended.

The yeas and nays being called for,

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Humble*, *McCallop*, *McRae*, *Penn*, *Porter*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Taylor* of St. Landry and *Waddill* voted in the affirmative—21 yeas; and

Messrs. *Benjamin*, *Boudousquie*, *Briant*, *Cènas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Covillion*, *Culbertson*, *Derbes*, *Dunn*, *Eustis*, *Garcia*, *Kenner*, *Legendre*, *Lewis*, *Marigny*, *Mayo*, *Peets*, *Prescott* of St. Landry, *Roman*, *St. Amand*, *Saunders*, *Soulé*, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Wadsworth*, *Wederstrandt* and *Winchester* voted in the negative—31 nays; consequently said motion was lost.

Mr. Brent moved to amend said section by striking out the words "except for purposes strictly relative to the administration of their municipal affairs, and for purposes of public education."

The yeas and nays being called for,

Messrs. *Brazeale*, *Brent*, *Brumfield*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Garrett*, *Humble*, *Hynson*, *Legendre*, *McCallop*, *McRae*, *Penn*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Splane*, *Stephens*, *Waddill* and *Wederstrandt* voted in the affirmative—26 yeas; and

Messrs. *Aubert*, *Beatty*, *Benjamin*, *Boudousquie*, *Briant*, *Burton*, *Cénas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Culbertson*, *Derbes*, *Dunn*, *Garcia*, *Guion*, *Kenner*, *Labauve*, *Legendre*, *Lewis*, *Marigny*, *Mayo*, *Roman*, *St. Amand*, *Saunders*, *Soulè*, *Taylor* of Assumption, *Voorhies*, *Wadsworth*, *Winchester* and *Winder* voted inthe negative—36 nays; consequently said motion was lost.

Mr. Mayo then sffered to amend said section by adding to the same, the following proviso, viz:

"*Provided*, that no authority shall ever be granted by the legislature to any corporations to exercise any banking or discounting privileges, nor to issue notes, bills or obligations of any kind to be used

as currency, and that no corporation shall ever be permitted to exercise any such powers."

Mr. BRENT offered as a substitute for the provision offered by Mr. Mayo, the following, viz:

"*Provided further*, that no political corporation shall ever be authorized to issue any notes, or bills or other obligations, payable to bearer or endorsed in blank."

Mr. BRENT moved for the adoption of the same.

The yeas and nays being called for,

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Cade*, *Carriere*, *Chambliss*, *Covillion*, *Downs*, *Garrett*, *Hudspeth*, *Humble*, *Hynson*, *Lewis*, *McCallop*, *McRae*, *Marigny*, *Mayo*, *Peets*, *Penn*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soule*, *Splane*, *Stephens*, *Taylor* of Assumption, *Voorhies*, *Waddill*, *Wadsworth* and *Wederstrandt* voted in the affirmative—40 yeas; and

Messrs. *Aubert*, *Benjamin*, *Boudousquie*, *Briant*, *Cenas*, *Chinn*, *Claiborne*, *Conrad* of Orleans, *Culbertson*, *Derbes*, *Dunn*, *Guion*, *Kenner*, *Legendre*, *Roman*, *St. Amand*, *Saunders*, *Taylor* of St. Landry and *Winchester* voted in the negative—19 nays; consequently said motion was carried and the substitute was adopted.

Mr. BEATTY moved to amend said section by striking out the words, "the legislature may delegate to political corporations the power to pass local ordinances, provided that such," and insert at the commencement of said section the word "municipal."

The yeas and nays being called for,

Messrs. Beatty, *Bourg*, *Brazeale*, *Brent*, *Burton*, *Cade*, *Carriere*, *Cenas*, *Chambliss*, *Chinn*, *Claiborne*, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *Humble*, *Hynson*, *McCallop*, *Peets*, *Penn*, *Porter*, *Prescott* of St. Landry, *Prudhomme*, *Read*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Soule*, *Splane*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Voorhies*, *Waddill*, *Wederstrandt* and *Winder* voted in the affirmative—38 yeas; and

Messrs. *Aubert*, *Benjamin*, *Briant*, *Conrad* of Orleans, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *Kenner*, *Legendre*, *Lewis*, *Mayo*, *Roman*, *Roselius*, *St. Amand*, *Saunders*, *Wadsworth* and *Winchester* voted in the negative—18 nays; consequently said motion was carried.

The yeas and nays being called for on the adoption of the section as amended, viz:

"Municipal corporations shall never be authorized to borrow, or issue their bonds or obligations; except for purposes strictly relative to the administration of their municipal offices, and for purposes of public education. *Provided* further, that no political corporation shall ever be authorized to issue any notes or bills or obligations, payable to order, or endorsed in blank,"

Messrs. Beatty, Bourg, Carriere, McCallop and Voorhies voted in the affirmative—5 yeas; and

Messrs. Benjamin, Brazeale, Briant, Brent, Burton, Cade, Cenas, Chambliss, Chinn, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Downs, Dunn, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Legendre, Lewis, Mayo, Porter, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Read, Roman, Roselius, St. Amand, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soule, Splane, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wadsworth, Wederstrandt, Winchester and Windervoted in the negative—50 nays; consequently said motion was lost.

Mr. SOULE submitted the following resolution, and the same was adopted, viz:

"*Resolved*, That the constitution be enrolled so as to substitute the division by *titles* to that of *articles*, and that the sections be amended under the name of articles, in a continuing run of figures, from the first to the last.

On motion the preamble was taken up for its third reading and adopted, viz:

CONSTITUTION OF THE STATE OF LOUISIANA.

PREAMBLE.

"WE, the people of the State of Louisiana, do ordain and establish this Constitution."

On motion, the distribution of powers was taken up for the third reading, and adopted, viz:

TITLE I.

DISTRIBUTION OF POWERS.

ART. 1. The powers of the goverment

of the State of Louisiana shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

On motion, the report of the committee of revision on the judiciary department was taken up for its third reading, viz:

TITLE IV.

JUDICIARY DEPARTMENT.

ART. 62. The Judicial power shall be vested in a supreme court, in district courts and in justices of the peace.

ART. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases when the matten in dispute shall exceed three hundred dollars, to all cases in which the constitutionality or legality of any tax, toll or impost of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures and penalties imposed by municipal corporations, and in criminal cases on questions of law alone, whenever the punishment of death, or hard labor may be inflicted, or when a fine exceeding three hundred dollars is actually imposed.

ART. 64. The supreme court shall be composed of one chief justice, and of three associate judges, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars annually. The said court shall appoint its own clerks. The said judges shall be appointed for the term of eight years.

ART. 65. When the first appointments are made under this constitution, the chief justice shall be appointed for eight years, one of the associate judges for six years, one for four years and one for two years; and in the event of the death, resignation or removal of any of said judges, before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of his term: so that the term of service of no two judges shall expire at the same time.

ART. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The Legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 67. The supreme court, and each of the judges thereof shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 68. In all cases in which the judges shall be equally divided in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinion in writing.

ART. 69. All judges by virtue of their office shall be conservators of the peace throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on "in the name, and by the authority of the State of Louisiana," and conclude "against the peace and dignity of the same."

ART. 70. The judges of all the courts within this State shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgement may be rendered, and in all cases adduce the reasons on which their judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings, except for the payment of such fees to ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office, or other compensation than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address

of three-fourths of the members present of each house of the general assembly. In every such case, the cause or causes for which such removal may be required shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART. 75. The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shall not be less than twelve, nor more than twenty.

For each district one judge, learned in the law, shall be appointed, except in the districts in which the cities of New Orleans and Lafayette are situated, in which the legislature may establish as many district courts as the public interest may require.

ART. 76. Each of the said judges shall receive a salary to be fixed by law; which shall not be increased or diminished during his term of office, and shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State six years next preceding his appointment, and have practiced law therein for the space of five years.

ART. 77. The judges of the district courts shall hold their offices for the term of six years. The judges first appointed shall be divided by lot into three classes, as nearly equal as can be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

ART. 78. The district courts shall have original jurisdiction in all civil cases when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts shall be removable for breach of good behavior, by the judges thereof; subject, in all cases, to an appeal to the supreme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed, in civil cases the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters in each parish, for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the district courts in this State shall be elected by the qualified electors in each parish, for the term of four years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 83. A sheriff and a coroner shall be elected in each parish, by the qualified voters thereof, who shall hold their offices for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices, subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

Mr. CONRAD of Orleans moved to amend the first section, by adding after the words "justices of the peace," in the third line, the words "and such other courts, in the city of New Orleans, as the legislature may from time to time direct."

Mr. BEATTY moved to amend the amendment by striking out the words "New Orleans."

Mr. BENJAMIN moved to lay both amendments on the table indefinitely.

The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Bourg, Brazeale, Brent, Burton, Cade, Carriere, Chambliss, Chinn, Eustis, Guion, Hudspeth, Humble, Hynson, Kenuer, Ledoux, Lewis, McCallop, McRae, Mayo, Peets,

Penn, Prescott of Avoyelles, Prescott of St. Landry, Scott of Baton Rouge, Sellers, Splane, Stephens, Taylor of St. Landry, Voorhies, Waddill, Wadsworth, Winchester and Winder voted in the affirmative —43 yeas; and

Messrs. Briant, Claiborne, Conrad of Orleans, Covillion, Culbertson, Derbes, Downs, Legendre, Marigny, Porter, St. Amand, Saunders, Scott of Feliciana, Soulé and Taylor of Assumption voted in the negative—15 nays; consequently said motion was carried.

Mr. TAYLOR of Assumption submitted the following resolution, which was adopted, viz:

Resolved, That Mr. PENN, the senatorial delegate from the parishes of Washington, Livingston and St. Helena be permitted to record his vote in the negative on the salary of the judges of the supreme court, as allowed by the third section of the judiciary power.

Mr. ROSELIUS moved to amend the 8th section by adding at the end of the same the following, viz:

"And in case the judges should all be of opinion that the judgment appealed from ought to be reversed, but are equally divided as to the judgment to be rendered, then the opinion of the chief justice shall prevail."

Which amendment was lost.

On motion of Mr. TAYLOR of Assumption, the judiciary article, as read above, was adopted. as follows, viz:

TITLE IV.

JUDICIARY DEPARMENT.

ART. 62. The judicial power shall be vested in a supreme court. in district courts and in justices of the peace.

ART. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases when the matter in dispute shall exceed three hundred dollars, to all cases in which the constitutionality of any tax, toll, or impost of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures and penalties imposed by municipal corporations; and in criminal cases on questions of law alone, whenever the punishment of death or hard labor may be inflicted, or when a fine exceeding three hundred dollars is actually imposed.

ART. 64. The supreme court shall be composed of one chief justice and of three associate judges, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars, annually. The said court shall appoint its own clerks. The said judges shall be appointed for the term of eight years.

ART. 65. When the first appointments are made under this constitution, the chief justice shall be appointed for the term of eight years, one of the associate judges for six years, one for four years and one for two years; and in the event of the death, resignation, or removal of any of said judges, before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of his term: so that the term of office of no two of said judges shall expire at the same time.

ART. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 67. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 68. In all cases in which the judges shall be equally dived in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinion in writing.

ART. 69. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "the State of Louisiana." All prosecutions shall be carried on "in the name and by the authority of the State of Louisiana," and conclude "against the peace and dignity of the same."

ART. 70. The judges of all courts within this State shall, as often as it is possible so to do, in every definitive judgment, re-

fer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which such judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings, except for the payment of such fees to the ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof. but such as are judicial; and the said judges are prohibited from receiving any fees of office, or other compension than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonsable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly. In every such case, the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART. 75. The first legislature assembled under this constitution, shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shell not be less than twelve, nor more than twenty.

For each district one judge, learned in the law shall be appointed, except in the district in which the cities of New Orleans and Lafayette are situated, in which the legislature many establish as many district courts as the public interest may require.

ART. 76. Each of the said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, and shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practiced law therein for the space of five years.

ART. 77. The judges of the district courts shall hold their offices for the term of six years. The judges first appointed shall be divided by ballot into three classes, as nearly equal as can be; and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

ART. 78. The district courts shall have original jurisdiction in all civil cases when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts snall be removable, for breach of good behavior, by the judges thereof; subject in all cases to an appeal to the supreme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed in civil cases the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish, for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the disirict courts in this State shall be elected by the qualified electors in each parish for the term of four years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 83. A sheriff and a coroner shall be elected in each parish, by the qualified voters thereof, who shall hold their offices

for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

On motion the report of the committee of revision on the executive department was taken up for third reading and adopted, viz:

TITLE III.

EXECUTIVE DEPARTMENT.

ART. 38. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years; and together with the lieutenant governor chosen for the same term, be elected as follows:—The qualified electors for representatives, shall vote for a governor and lieutenant governor, at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer to the secretary of state; who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly, then next to be holden. The members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected, but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor shall be lieutenant governor, but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor by joint vote of the members of the general assembly.

ART. 39. No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within this State for the same space of time next preceding his election.

ART. 40. The governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and shall have taken the oath or affirmation prescribed by this Constitution.

ART. 41. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 42. No member of congress or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant governor.

ART. 43. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability; or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor, and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

ART. 44. The lieutenant governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he continued in office.

ART. 45. The lieutenant governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate the senators shall elect one of their own members as president of the senate for the time being.

ART. 46. While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

ART. 47. The governor shall have power to grant reprieves for all offences against the State, and except in cases of impeach-

nent, shall, with the consent of the senate, ave power to grant pardons and remit nes and forfeitures, after conviction. In ases of treason he may grant reprieves, ntil the end of the next session of the gen- ral assembly, in which the power of par- oning shall be vested.

ART. 48. The governor shall at stated mes receive for his services a compensa- on, which shall neither be increased or iminished during the term for which he hall have been elected.

ART. 49. He shall be commander-in- hief of the army and navy of this State nd of the militia thereof, except when hey shall be called into the service of the Jnited States.

ART. 50. He shall nominate, and by and vith the advice and consent of the senate, ppoint all officers whose offices are es- ablished by this constitution, and whose ppointment is not therein otherwise pro- ided for: Provided, however, that the egislature shall have a right to prescribe he mode of appointment to all other offices stablished by law.

ART. 51. The governor shall have pow- r to fill vacancies that may happen during he recess of the senate, by granting com- nissions which shall expire at the end of he next session, unless otherwise provided or in this constitution; but no person who as been nominated for office, and rejected y the senate, shall be appointed to the ame office during the recess of the senate

ART. 52. He may require information n writing from the officers in the execu- ive department, upon any subject relating o the duties of their respective offices.

ART. 53. He shall from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 54. He may on extraordinary oc- casions convene the general assembly at he seat of government, or at a different place if that should become dangerous from an enemy or from epidemics; and in case of disagreemet between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 55. He shall take care that the laws be faithfully executed.

ART. 56. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not, he shall return it with his ob- jections to the house in which it origina- ted, which shall enter the objections at large upon its journal, and proceed to re- consider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be en- tered on the journal of each house respec- tively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general as- sembly by adjournment, prevent its return; in which case it shall bea law, unless sent back within three days after their next meeting.

ART. 57. Every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the gov- ernor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected to each house of the gen- eral assembly.

ART. 58. There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and when necessary shall attest them. He shall, when required, lay the said register, and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be en- joined on him by law.

ART. 59. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

ART. 60. The free white men of the State shall be armed and disciplined for

its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equvalent for personal services.

Art. 61. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

On motion of Mr. Read, acting chairman of the committee on contingent expenses, the report offered by him and laid on the table subject to call, was taken up, viz:

The committee on contingent expenses have carefully examined the claims presented by Jerome Bayon, and by Messrs. Besançon, Ferguson & Co., and have come to the conclusion that the sum of three thousand dollars should be allowed to Mr. Jerome Bayon, in full payment for all printing (including subscription for the paper) already done and remaining to be done; and that the sum of three thousand three hundred and sixty dollars should be allowed Messrs. Besançon, Ferguson & Co., in full payment for all printing (including subscription for paper) already done and remaining to be done; and the committee recommend that said sums be paid to the printers, deducting therefrom the sum of five hundred dollars paid to Mr. Bayon, and the sum of twelve hundred and fifty dollars paid to Messrs. Besançon, Ferguson & Co., and that the said committee be authorised to issue a warrant in favor of Mr. Jerome Bayon, for the sum of two thousand five hundred dollars, and a warrant in favor of Messrs. Besançon, Ferguson & Co., for the sum of two thousand one hundred and ten dollars,—these being the amounts allowed after making the above deductions.

(Signed,) A. READ,
J. P. BENJAMIN,
L. SAUNDERS,
C. ROSELIUS.

Mr. Lewis moved to amend said report, by adding at the end of the same the words "and that the warrants shall not be delivered to the printers for the debates and journal until they are delivered to the secretary," which amendment was adopted—and the report as amended was adopted.

Mr. Brent offered the following resolution, viz:

Resolved, That an additional compe sation of five hundred dollars be allow Messrs. Besançon, Ferguson & Co., pri ters in English to the Convention.

Mr. Chinn moved to lay the above res lution on the table indefinitely.

The yeas and nays being called for,

Messrs. *Aubert*, *Benjamin*, *Burton*, *Bru field*, *Chinn*, *Covillion*, *Dunn*, *Garcia*, *Ga rett*, *Labauve*, *McCallop*, *Penn*, *Scott* Baton Rouge, *Sellers*, *Stephens*, *Taylor* Assumption and *Winchester* voted in t affirmative—17 yeas; and

Messrs. *Beatty*, *Bourg*, *Brazeale*, *Bre Cade*, *Carriere*, *Cènas*, *Chambliss*, *Cov lion*, *Downs*, *Eustis*, *Guion*, *Humble*, *Hy son*, *Ledoux*, *Legendre*, *Lewis*, *McRa Marigny*, *Mayo*, *Peets*, *Porter*, *Prescott* Avoyelles, *Prescott* of St. Landry, *Presto Prudhomme*, *Pugh*, *Read*, *Roman*, *Sau ders*, *Scott* of Madison, *Taylor* of St. La dry, *Waddill*, *Wederstrandt* and *Wind* voted in the negative—35 nays; cons quently said motion was lost.

Mr. Brent moved for the adoption the resolution.

The yeas and nays being called for,

Messrs. *Beatty*, *Brazeale*, *Brent*, *Cénas Chambliss*, *Covillion*, *Downs*, *Eustis*, *Gar rett*, *Humble*, *Hynson*, *Labauve*, *Ledou McCallop*, *McRae*, *Marigny*, *Mayo*, *Peet Porter*, *Prescott* of Avoyelles, *Prescott* o St. Landry, *Preston*, *Read*, *Scott* of Bato Rouge *Scott* of Madison, *Taylor* of Assump tion, *Waddill* and *Wederstrandt* voted i the affirmative—28 yeas; and

Messrs. *Benjamin*, *Bourg*, *Brumfield Burton*, *Cade*, *Carriere*, *Conrad* of Jeffer son, *Dunn*, *Garcia*, *Guion*, *Hudspeth*, *Le gendre*, *Lewis*, *Penn*, *Prudhomme*, *Pugh Roman*, *Saunders*, *Sellers*, *Stephens*, *Tay lor* of St. Landry and *Winchester* voted i the negative—23 nays; consequently said motion was carried, and the resolution adopted.

Mr. Mayo offered the following resolution, and the same was adopted, viz:

Resolved, That the treasurer be directed to retain from the funds appropriated for the use of the Convention, an amount sufficient to pay the printers' claims for the debates and journals of the Convention.

On motion, the Convention adjourned till to-morrow, at 9 o'clock.

TUESDAY, MAY 13, 1845.

The Rev. Mr. CLARK opened the proceedings by prayer.

The Convention met pursuant to adjournment.

Mr. READ submitted thef ollowing resolution, and the same was adopted—viz:

Resolved, That the committee on contingent expenses be authorized to issue warrants in favor of Auguste Bruslé, for the sum of ninety-eight dollars and twenty five cents; in favor of A. G. Penn, (for postage,) for the sum of one hundred and one dollars; in favor of J. L. Vignaud (for winding and keeping in ordnr the clock,) for the sum of ten dollars; in favor of B. M. Norman, bookseller and stationer, for the sum of nine dollars and forty cents; in favor of James Carpenter, for hire of Leon, to attend Hall &c., twenty-two dollars up to and including the 14th inst. in favor of C. Larsen, (for ice,) for fourteen dollars.

On motion the schedule as reported by the committee of revision, was taken up for its second reading and adopted—viz:

TITLE IX.

SCHEDULE.

ART. 141. The Constitution adopted in 1812 is declared to be superseded by this Constitution, and in order to carry the same into effect, it is hereby declared and ordained as folllows:

ART. 142. All rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith shall continue as if the same had not been adopted.

ART. 143. Until the first enumeration shall be made as directed in article eighth, of this Constitution, the parish of Orleans shall have twenty representatives, to be elected as follows, viz:

Eight by the First Municipality, seven by the Second Municipality, and four by the Third Municipality, to be distributed among the nine representative districts as follows, by allotting to the

First district,	two Rep.
Second "	two
Third "	three
Fourth "	three
Fifth "	three
Sixth "	two
Seventh district,	two
Eighth	one
Ninth "	one

And to that part of the parish on the right bank of the Mississippi, one

The parish of Plaquemines, shall have three

"	St. Bernard,	one
"	Jefferson,	three
"	St. Charles,	one
"	St. John the Baptist,	one
"	St. James,	two
"	Ascension,	two
"	Assumption,	three
"	Lafourche Interior,	three
"	Terrebone,	two
"	Iberville,	two
"	West Baton Rouge,	one
"	East do.	three
"	West Feliciana,	two
"	East do	three
"	St. Helena,	one
"	Washington,	one
"	Livingston,	one
"	St. Tammany,	one
"	Point Coupée,	one
"	Concordia,	one
"	Tensas,	one
"	Madison,	one
"	Carroll,	one
"	Franklin,	one
"	St. Mary,	two
"	St. Martin,	three
"	Vermillion,	one
"	Lafayette,	two
"	St. Landry,	five
"	Calcasieu,	one
"	Avoyelles	two
"	Rapides,	three
"	Natchitoches,	three
"	Sabine,	two
"	Caddo,	one
"	De Soto,	one
"	Ouachita,	one
"	Morehouse,	one
"	Union	one
"	Jackson,	one
"	Caldwell,	one
"	Catahoula,	two
"	Claiborne,	two
"	Bossier,	one

Total, ninety-eight.

And the State shall be divided into the following senatorial districts:

All that portion of the parish of Orleans

lying on the east side of the Mississippi river shall compose one senatorial district, and shall elect four senators;

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans lying on the right bank of the river, shall compose one district, with one senator;

The parish of Jefferson shall compose one district, with one senator;

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator;

The parish of St. James shall compose one district, with one senator;

The parish of Ascension shall compose one district with one senator;

The parishes of Assumptton, Lafourche Interior and Terrebonne shall compose one district, with two senators;

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator;

The parish of East Baton Rouge shall compose one district, with one senator;

The parish of Point Coupée shall compose one district, with one senator;

The parish of Avoyelles shall compose one district, with one senator;

The parish of St. Mary shall compose one distrtct, with one senator;

The parish of St. Martin shall compose one district, with one senator;

The parishes of Lafayette and Vermillion shall compose one district, with one senator;

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators;

The parish of West Feliciana shall compose one district, with one senator;

The parish of East Feliciana shall compose one district, with one senator;

The parishes of St. Helena and Livingston shall compose one district, with one senator;

The parishes of Washington and St. Tammany, shall compose one district, with one senator;

The parishes of Concordia and Tensas shall compose one district with one senator;

The parishes of Carroll and Madison shall compose one district, with one senator;

The parishes of Jackson, Union, Morehouse and Ouachita shall compose one district, with one senator;

The parishes of Caldwell, Franklin and Catahoula shall compose one district, with one senator;

The parish of Rapides shall compose one district, with one senator;

The parishes of Bossier and Claiborne shall compose one district, with one senator;

The parish of Natchitoches shall compose one district, with one senator;

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator;

And whenever a new parish shall be created,it shall be attached to the senatorial district from which most of its territory was taken or to another contiguous district at thediscretion of the legislature, but shall not be attached to more than one district.

Art. 144. In order that no inconvenience may result to the public service from the taking effect of this Constititution, no office shall be superseded thereby; but the laws of the State relative to the duties of the several officers, executive, judicial and military, shall remain in full force, though the same be contrary to this Constitution, and the several duties shall be performed by the respective officers of the State according to the existing laws, until the organization of the government under this Constitution, and the entering into office of the new officers, to be appointed under said government, and no longer.

Art. 145. Appointments to office by the executive under this Constitutton, shall be made by the governor to be elected under its authority.

Art. 146. The provisions of article 28, concerning the inability of members of the legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first legislature elected under this Constitution.

Art. 147. The time of service of all officers chosen by the people, at the first election under this Constitution, shall terminate as though the election had been holden on the first Monday of November 1845, and they had entered on the discharge of their duties at the time designated therein.

Art. 148. The legislature shall provide for the removal of all causes now pending

in the supreme or other courts of the courts under the Constitution of 1812, to State created by this Constitution.

ART. 149. Appeals to the supreme court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas, and Concoreia, shall until otherwise provided for, be returnable to New Orleans.

On motion of Mr. TAYLOR of Assumption, the report of the committee of revision on the legislative department was taken up, viz:

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The legislative powers of the State shall be vested in two distinct branches, the one to be styled the "house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November, every two years; and the election shall be completed in one day. The general assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed by law, and their session shall be held at the seat of government.

ART. 6. No person shall be a representative, who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

ART. 7. Elections for representatives for the several parishes or representative districts shall be held at the several election precincts established by law. The legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives, shall be equal and uniform, and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one representative; no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first enumeration to be made by the State authorities under this constitution shall be made in the year 1847, the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law for the purpose of ascertaining the total population and the number of qualified electors in each parish and election district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election districts on the basis of qualified electors as aforesaid. A representative number shall be fixed, and each parish and election district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi, shall be divided into nine representative districts, as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district to extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district to comprise the residue of the Second Municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of St. Louis street, until it reaches the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district to extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its interseetion with the bayou St. John, thence along the middle of said bayou until it in-

tersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district to be composed of the residue of the First Municipality.

7th. Seventh district, from the middle Esplanade street to the middle of Champs Elysées street.

8th. Eighth district, from the middle of Champs Elysées street to the middle of Enghein street and Lafayette Avenue.

9th. Ninth district, from the middle of Enghein street and Lafayette Avenue to the lower limits of the parish.

ART. 9. The house of representatives shall choose its speaker and other officers.

ART. 10. In all elections by the people, every free white male who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. *Provided*, that no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall, in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

ART. 11. Absence from the State for more than ninety consecutive days, shall interrupt the acquisition of the residence required in the preceding article, unless the person absenting himself shall be a housekeeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrying on business shall be actually occupied during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

ART. 12. No soldier, seaman or marine in the army or navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in the State.

ART. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and in cities and towns divided into election precincts, in the election precinct in which he resides.

ART. 14. The members of the senate shall be chosen for the term of four years. The senate when assembled, shall have the power to choose its officers every two years.

ART. 15. The legislature in every year in which they shall apportion representation in the house of representatives shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if in the apportionment to be made, a parish or district fall short of or exceed the ratio, one-fifth, then a district may be formed having not more than two senators, but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the eighth article, the legislature shall not pass any laws until an apportionment of the representation in both houses of the general assembly be made.

ART. 17. At the first session of the general assembly, after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kep

up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them.

ART. 18. No person shall be a senator, who at the time of his election, has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and the last year thereof in the district in which he may be chosen.

ART. 19. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

ART. 20. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorised by law to compel the attendance of absent members.

ART. 21. Each house of the general assembly shall judge of the qualification, election and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 22. Each house of the general Assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and with the concurrence of two-thirds expel a member, but not a second time for the same offence.

ART. 23. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 24. Each house may punish by imprisonment any person not a member, for disrespectful and disorderly behavior, in its presence or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 25. Neither house, during the session of the general assembly, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 26. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members, of the house of representatives by whom such alterations shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days, shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

ART. 27. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses; and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

ART. 28. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

ART. 29. No person, while he continues to exercise the functions of a clergyman, priest or teacher of any religious persuasion, society or sect, shall be eligible to the general assembly.

ART. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any other office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

ART. 31. No bill shall have the force of a law until on three several days, it be read over in each house of the general assem-

bly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house, where the bill shall be pending, may deem it expedient to dispense with this rule.

Art. 32. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills; *provided*, they shall not introduce any new matter under the color of an amendment which does not relate to raising revenue.

Art. 33. The general assembly shall regulate by law, by whom, and in what manner, writs of election shall be issued, to fill the vacancies which may happen in either branch thereof.

Art. 34. A majority of all the members elected to the senate, shall be required for the confirmation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

Art. 35. Returns of all elections for members of the general assembly shall be made to the secretary of state.

Art. 36, A treasurer of the State shall be elected biennially, by joint ballot of the two houses of the general assembly. The governor shall have the power to fill any vacancy that may happen in that office during the recess of the legislature.

Art. 37. In the year in which a regular election of a senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

Mr. Claiborne moved to amend the fifteenth article by striking out the proviso which authorizes the legislature to divide the city of New Orleans into different senatorial districts. The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Briant, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Guion, Labauve, Legendre, Marigny Mazureau, Pugh, Roman, St. Amand, Saunders and Winchester voted in the affirmative—24 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, DuBouchel, Garrett, Humble, Hynson, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Read, Scott of Madison, Scott of Feliciana, Scott of Baton Rouge, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St Landry, Waddill, Wadsworth and Wederstrandt voted in the negative—32 nays; consequently said motion was lost.

Mr. Brent moved to lay the eleventh article on the table indefinitely. The yeas and nays being called for,

Messrs. Brazeale, Brent, Cade, Carriere, Chambliss, Du Bouchel, Eustis, Garcia, Humble, Hynson, McRae, Marigny, Mayo, Peets, Porter, Prescott of Avoyelles, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Soulé, Splane, Stephens, Waddill and Wederstrandt, voted in the affirmative—25 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boudousquiè, Briant, Burton, Cénas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Garrett, Guion, Hudspeth, Kenner, Legendre, Lewis, McCallop, Mazureau, Prescott of St. Landry, Pugh, Roman, Saunders, Sellers, Taylor of Assumption, Taylor of St. Landry and Wadsworth, voted in the negative—31 nays; consequently said motion was lost.

Mr. Conrad of New Orleans moved to amend the tenth article, by inserting in the first line, after the word "male," the words "who has been two years a citizen of the United States."

The yeas and nays being called for,

Messrs. Aubert, Beatty, Benjamin, Boudousquie, Bourg, Brent, Briant Brumfield, Burton, Carriere, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garrett, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, McCallop, Mayo, Mazureau, Peets, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Pugh, Roman, St. Amand, Scott of Feliciana, Scott of Baton Rouge, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—45 yeas; and

Messrs. Brazeale, DuBouchel, Garcia, Humble, McRae, Marigny, Porter, Read, Soule, Splane and Waddill voted in the negative—11 nays; consequently said motion was carried, and the section was adopted, as amended, viz:

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The legislative power of the State shall be vested in two distinct braches, the one to be styled "the house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November, every two years, and the election shall be completed in one day. The general assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed dy law, and their session shall be held at the seat of government.

ART. 6. No person shall be a representative who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

ART. 7. Elections for representatives for the several parishes or representative districts shall be held at the several election precincts established by law. The legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives, shall be equal and uniform and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one representative. No new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said xtent of territory and number of electors.

The first enumeration to be made by the State authorities under this constitution shall be made in the year 1847, the second in the year 1855, and the subsequent enumeration shall be made every tenth year thereafter, in such manner as shall be prescribed by law; for the purpose of ascertaining the total population and the number of qualified electors in each parish and election district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election districts on the basis of qualified electors, as aforesaid. A representative number shall be fixed, and each parish and election district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi shall be divided into nine representative districts, as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle, and Thalia streets.

2d. Second district to extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district to comprise the residue of the second municipality.

4th. Fourth district to extend from the middle of canal street to the middle of St. Louis street, until it reaches the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district to extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its intersection with the bayou St. John, thence along the middle of said bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district to be composed of the residue of the first municipality.

7th. Seventh district from the middle of Esplanade street to the middle of Champs Elysèes street.

8th. Eighth district from the middle of Champs Elysées street to the middle of Enghien street and Lafayette avenue.

9th. Ninth district from the middle of Enghien street and Layfayette avenue to the lower limits of the parsh.

ART. 9. The house of representatives shall choose its speaker and other officers.

ART. 10. In all elections by the people every free white male who has been two years a citizen of the United States, who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting: *Provided*, that no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to or returning from elections.

ART. 11. Absence from the State for more than ninety consecutive daya shall interrupt the acquisition of the residence required in the preceding article; unless the person absenting himself shall be a house-keeeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrying on business shall be actually occupied during his absence, by his family or servants, or some portion theref, or by some one employed by him.

ART. 12. No soldier, seaman or marine in the army or navy of the United States, uo pauper, nor person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

ART. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and in cities and towns divided into election precincts, in the election precinct in which he resides.

ART. 14. The members of the senate shall be chosen for the term of four years. The senate, when assembled, shall have the power to choose its officers every two years.

ART. 15. The legislature in every year in which they shall apportion represetation in the house of representatives shall divide the State into senatorial districts. No parish shall be divided in the formation of senatorial districts, the parish of Orleans excepted. And whenever a new parish shall be created it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to mroe than one district. The number of senators shall be thirty two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the result produced by this division shall be the senatorial ratio entitling a district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if in the apportionment to be made, a parish or district fall short of or exceed the ratio, one-fifth, then a district may be formed having not more than two senators; but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the eighth article, the legislature shall not pass any laws until an apportionment of the representation in both houses of the general assembly shall be made.

ART. 17. At the first session of the general assembly, after this constitution takes effect, the senators shall be equally divided, by lot, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually.—In case any district shall have elected two

or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them.

Art. 18. No person shall be a senator who at the time of his election has not been a citizen of the United States ten years, and who has not attained the age of twenty seven years, and resided in the State four years next preceding his election, and the last year thereof in the district in which he may be chosen.

Art. 19. The first election for senators shall be general throughout the State, and at the same time that the election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

Art. 20. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compell the attendance of absent members.

Art. 21. Each house of the general assembly shall judge of the qualification, election and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

Art. 22. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two thirds, expel a member, but not a second time for the same offence.

Art. 23. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

Art. 24. Each house may punish by imprisonment any person, not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

Art. 25. Neither house during the session of the general assembly, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Art. 26. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteretion shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days, shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

Art. 27. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Art. 28. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during the time which such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

Art. 29. No person while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society or sect, shall be eligible to the general assembly.

Art. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

Art. 31. No bill shall have the force of a law until on three several days it be read over in each house of the general as-

sembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house where the bill shall be pending may deem it expedient to dispense with this rule.

ART. 32. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills; provided they shall not introduce any new matter under the color of an amendment, which does not relate to the raising of revenue.

ART. 33. The general assembly shall regulate by law, by whom, and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ART. 34. A majority of all the members elected to the senate shall be required for the conformation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments respectively, shall be entered on a journal to kept for that purpose, and made public at the end of each session, or before.

ART. 35. Returns of all elections for members of the general assembly shall be made to the secretary of State.

ART. 36. A treasurer of the State shall be elected biennially, by joint ballot of the two houses of the general assembly. The governor shall have the power to fill any vacancy that may happen in that office during the recess of the legislature.

ART. 37. In the year in which a regular election of a senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

Mr. WINDER submitted the following resolution, viz:

Resolved, that the question on the final passage of this constitution be taken tomorrow at twelve o'clock, m., and that if a majority of the votes be in favor of its passage, that the same be adopted, and be signed by the president and such members of the Convention as may desire to sign it, and countersigned by the secretary.

Mr. CONRAD of Orleans moved to amend the same by striking out the words "and such members of the Convention as may desire to sign it;" which motion was lost.

Mr. DOWNS moved to amend said resolution by inserting after the words "twelve o'clock, m.," the words "without debate;" which motion prevailed, and the resolution as amended was adopted, viz:

"*Resolved*, that the question on the final passage of this constitution be taken on tomorrow at twelve o'clock, m., without debate; and that if a majority of the votes be in favor of its passage, that the same be adopted, and be signed by the president and such members of the Convention as may desire to sign it, and attested by the secretary."

EVENING SESSION, May 13, 1845.

On motion of Mr. TAYLOR of Assumption, the general provisions were taken up for a third reading, viz:

TITLE IV.

GENERAL PROVISIONS.

ART. 89. Members of the general assembly, and all officers, before they enter upon the duties of their offices shall take the following oath or affirmation:

I (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States, and of this State; and I do further solemnly swear (or affirm) that since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending, so help me God."

ART. 90. Treason against the State shall consist only in levying war against, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given, or offered a bribe to procure his election or appointment.

Art. 92. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult or other improper practice.

Art. 93. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

Art. 94. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbritration.

Art. 95. All civil officers for the State at large shall reside within the State, and all district or parish officers within their districts or parishes, and shall keep their offices at such places therein as may be required by law. No person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election, or appointment, to have acquired the right of voting in such parish; and no person shall be elected or appointed to any district office, who shall not have resided in such district, or an adjoining district, long enough before such appointment or election, to have acquird the right of voting in the same.

Art. 96. The duration of all offices not fixed by this constitution shall never exceed four years.

Art. 97. All civil officers, except the governor, and judges of the supreme and district courts, shall be removeable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

Art. 98. Absence on business of this State or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

Art. 99. It shall be the duty of the legislature to provide by law for deductions from the salaries of public officers who may be guilty of a neglect of duty.

Art. 100. The legislature shall point out the manner in which a person coming into the State shall declare his residence.

Art. 101. In all elections by the people the vote shall be by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

Art. 102. No member of congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

Art. 103. The laws, the public records and the judicial and legislative written proceedings of the State shall be promulgated, preserved and conducted in the language in which the constitution of the United States is written.

Art. 104. The secretary of the senate and clerk of the house of representatives shall be conversant with the French and English languages; and members may address either house in the French or English language.

Art. 105. The general assembly shall direct by law how persons who are now or may hereafter become sureties for public officers may be discharged from such suretyship.

Art. 106. No power of suspending the laws of this State shall be exercised, unless by the legislature or its authority.

Art. 107. Prosecutions shall be by indictment, or information. The accused shall have a speedy public trial by an impartial jury of the vicinage; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right, unless he shall have fled from justice, of meeting the witnesses face to face, and shall have compulsory process for obtaining witneses in his favor.

Art. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or pre-

sumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

Art. 109. No *ex-post facto* law, nor any law impairing the obligation of contracts, shall be passed; nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

Art. 110. The press shall be free. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

Art. 111. Emigration from the State shall not be prohibited.

Art. 112. The general assembly which shall meet after the first election of representatives under this constitution, shall, within the first month after the commencement of the session, designate and fix the seat of government, at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route; and if on the Mississippi river, by the meanders of the same; and when so fixed, it shall not be removed without the consent of four-fifths of the members of both houses of the general assembly. The sessions shall be held in New Orleans until the end of the year 1848.

Art. 113. The legislature shall not pledge the faith of the State for the payment of any bonds, bills or other contracts or obligations for the benefit or use of any person or persons, corporation or body politic whatever. But the State shall have the right to issue new bonds in payment of its outstanding obligations or liabilities, whether due or not; the said new bonds, however, are not to be issued for a larger amount or at a higher rate of interest, than the original obligations they are intended to replace.

Art. 114. The aggregate amount of debts hereafter contracted by the legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war to repel invasions or suppress insurrections, unless the same be authorised by some law, for some single object or work, to be distinctly specified therein; which laws shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed, and said law shall be irrepealable until principle and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

Art. 115. The legislature shall provide by law for a change of venue in civil and criminal cases.

Art. 116. No lottery shall be authorized by this State, and the buying or selling of lottery tickets within this State is prohibited.

Art. 117. No divorce shall be granted by the legislature.

Art. 118. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

Art. 119. No law shall be revived or amended by reference to its title; but in such case, the act revived, or section amended, shall be re-enacted and pubished at length.

Art. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws; but in all cases shall specify the several provisions of the laws it may enact.

Art. 121. The State shall not become subscriber to the stock of any corporation or joint stock company.

Art. 122. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

Art. 123. Corporations shall not be created in this State by special laws except for political or municipal purposes; but the Legislature shall provide by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

Art. 124. From and after the month of January 1890, the Legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

Art. 125. The General Assembly shall never grant any exclusive privilege or monopoly, for a longer period than twenty years.

Art. 126. No person shall hold or exer-

cise, at the same time, more than one civil office of emolument, except that of justice of the peace.

Art. 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property, on which taxes may be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

Art. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the legislature; *provided*, that the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

Art. 129. The legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

Art. 130. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this constitution.

Art. 131. The legislature shall have power to extend this constitution, and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

Art. 132. The constitution and laws of this State. shall be promulgated in the English and French languages.

On motion the 89th article was laid on the table, subject to call.

Mr. Voorhies moved to lay the 112th article on the table, subject to call.

The yeas and nays being called for,

Messrs. Benjamin, Brent, Briant, Cenas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, DuBouchel, Eustis, Garcia, Garrett, Humble, Ledoux, Legendre, Marigny, Mayo, Mazureau, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Roman, Roselius, St. Amand, Saunders, Soule, Trist, Voorhies, Wadsworth and Winchester voted in the affirmative—32 yeas; and

Messrs. Aubert, Beatty, Brazeale, Burton, Chambliss, Chinn, Dunn, Guion, Hudspeth, Hynson, Kenner, Lewis, McCallop, McRae, Peets, Porter, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana. Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Waddill, Wederstrandt, Winchester and Winder voted in the negative—28 nays; consequently said motion was carried.

Mr. Taylor of Assumption moved to lay the 38th section on the table indefinitely.

The yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Brumfield, Conrad of Jefferson, Covillion, DuBouchel, Downs, Eustis, Garcia, Garrett, Guion, Humble, Hynson, Ledoux, Legendre, Lewis, Marigny, Peets, Prescott of Avoylles, Preston, Read, St. Amand, Saunders, Soule, Stephens, Taylor of Assump- Taylor of St. Landry, Trist, Wadsworth and Winder voted in the affirmative—31 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Burton, Cenas, Chambliss, Chinn, Culbertson, Derbes, Dunn, Hudspeth, Kenner, McCallp, McRae, Mayo, Mazureau, Porter, Prescott of St. Landry, Prudhomme, Pugh, Roman, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Voorhies, Waddill, Wederstrandt and Winchester voted in the negative—31 nays; thevote being equal, consequently the motion was lost.

Mr. Dunn then moved for the adoption of the section.

The yeas and nays being called for,

Messrs. Benjamin, Briant, Cenas, Chinn, Culbertson, Derbes, Dunn, Hynson, Ma-

zureau, Porter, Pugh, Roman, Roselius, Scott of Feliciana, Scott of Madison, Voorhies, Wadsworth, Wederstrandt and Winchester voted in the affirmative—19 yeas; and

Messrs. Aubert, Beatty, Brazeale, Brent, Brumfield, Burton, Chambliss, Conrad of Orleans, Conrad of Jefferson, Covillion, Downs, DuBouchel, Eustis, Garcia, Garrett, Guion, Humble, Kenner, Ledoux, Legendre, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Read, St. Amand, Saunders, Scott of Baton Rouge, Sellers, Soule, Stephens, Taylor of Assumption, Taylor of St. Landry, Trist, Waddill and Winder, voted in the negative—42 nays; consequently said motion was lost, and the section rejected.

On motion the 39th section was laid on the table indefinitely.

Mr. Taylor of Assumption, moved to amend the 130th article by inserting after the word "weapons," the words "with a citizen of this State;" and to insert after the words "witin the State or out of it," the words "with a citizen of this State."

The yeas and nays being called for,

Messrs. Beatty, Benjamimin, Boudousquie, Brent, Briant, Cenas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Garcia, Guion, Hudspeth, Humble, Kenner, Ledoux, Legender, Marigny, Mayo, Mazureau, Porter, Prescott of Avoyelles, Prescott of St. Landry, Prudhomme, Roman, St. Amand, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Soule, Splane, Taylor of Assumption, Taylor of St. Landry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt, Winchester and Winder voted in the affirmative—45 yeas; and

Messrs. Brazeale, Burton, Chambliss, Chinn, Eustis, Garrett, Hynson, Lewis, McCallop, McRae, Peets, Preston, Pugh, Read, Roselius and Stephens voted in the negative—16 nays; consequently said motion was carried.

Mr. Chinn moved for the adoption of the section as amended. The yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Derbes Downs, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Mayo, Peets, Prescott of Avoyelles, Prescott of St. Landry, Pugh, Preston, Read, Roselius, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Voorhies, Waddill, Winchester and Winder, voted in the affirmative—38 yeas, and

Messrs. Aubert, Beatty, Benjamin Boudousquie, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, DuBouchel, Garcia, Kenner, Legendre Marigny, Mazureau, Porter, Prudhomme, Roman, St. Amand, Soulé, Splane, Trist, Wadsworth and Wederstrandt voted in the negative—25 nays, consequently the said section was adopted as amended, viz:

Art. 130. Any citizen of this State, who shall, after the adoption of this Constitution, fight a duel with deadly weapons with a citizeu of this State, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it with a citizen of this State, or who shall act as second, or knowingly aid and assist in any manner, those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this Consstitution.

On motion of Mr. Kenner, the article 112 was taken up, viz:

Art. 112. The general assembly whic h shall meet after the first election of representatives, under this Constitution, shall, within the first month after the commencement of the session, designate and fix the seat of government, at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route, and if on the Mississippi river, by the meanders of the same; and when so fixed it shall not be removed without the consent of four-fifths of the members of both houses of the general assembly. The sessions shall be held in New Orleans, until the end of the year 1848.

Mr. Brent submitted as a substitute for said article, the following, viz:

The seat of government shall be fixed permanently, after the year 1848 in the city of Baton Rouge.

Mr. Kenner moved to amend the substitute by striking out the words "in the city of Baton Rouge," and inserting in lieu thereof the words "in Donaldsonville," which motion was lost.

Mr. BENJAMIN moved to amend said substitute by striking out the words "in the city of Baton Rouge." The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousqnie, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garcia, Hudspeth, Kenner, Ledoux, Legendre, Lewis Marigny, Mazureau, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Taylor of St. Landry, Wadsworth Winchester and Winder, voted in the affirmative—31 yeas; and

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Chambliss Chinn, Dunn, Garrett, Gnion, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Prescatt of Avoyelles, Prescott of St. Landry, Pugh, Read, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill and Wederstrandt, voted in the negative—32 nays; consequently said motion was lost.

Mr. BRENT then moved for the adoption of the substitute. The yeas and nays being called for,

Messrs. Beatty, Brazeale, Brent, Brumfield, Burton, Chambliss, Chinn, Dunn, Garrett, Humble, Hynson, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoylles, Prescott of St. Landry, Pugh, Read, Scott of of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Splane, Stephens, Taylor of Assumption, Trist, Voorhies, Waddill and Wederstrandt voted in the affirmative—31 yeas; and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garcia, Guion, Hudspeth, Kenner, Ledoux, Legendre, Lewis, Marigny, Mazureau, Preston, Prudhomme, Roman, Roselius, St. Amand, Soulé, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—32 nays; consequently said motion was lost and the substitute rejected.

Mr. VOORHIES then moved to amend said section by striking out the words "at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route, and if on the Mississippi river, by the meanders of the same." The yeas and nays being called for,

Messrs. Aubert, Benjamin, Boudousquie, Brent, Briant, Cénas, Conrad of Orleans, Conrad of Jefferson, Covillion, Culbertson, Derbes, Downs, DuBouchel, Eustis, Garcia, Garrett, Guion, Humble, Ledoux, Legendre, Marigny, Mayo, Mazureau, Porter, Prescott of St. Landry, Prudhomme, Preston, Roman, Roselius, St. Amand, Soulé, Splane, Trist, Voorhies, Wadsworth and Winchester voted in the affirmative—36 yeas; and

Measrs. Beatty, Brazeale, Brumfield, Burton, Chambliss, Chinn, Dunn, Hudspeth, Hynson, Kenner, Lewis, McCallop, McRae, Peets, Prescott of Avoyelles, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Feliciana, Scott of Madison, Sellers, Stephens, Taylor of Assnmption, Taylor of St. Landry, Waddill, Wederstrandt and Winder voted in the negative—28 nays; consequently said motion was lost.

Mr. WADSWOTH gave notice that he would on to-morrow, move to reconsider the above vote.

Mr. CHINN moved for the adoption of the section.

The yeas and nays being called for,

Messrs. *Aubert*, *Beatty*, *Brazeale*, *Brent*, *Brumfield*, *Burton*, *Chambliss*, *Chinn*, *Dunn*, *Garrett*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wadsworth*, *Wederstrandt* and *Winder* voted in the affirmative—35 yeas; and

Messrs. *Benjamin*, *Briant*, *Cènas*, *Conrad* of Orleans, *Conrad* of Jefferson, *Covillion*, *Culbertson*, *Derbes*, *Downs*, *DuBouchel*, *Eustis*, *Garcia*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Porter*, *Prudhomme*, *Preston*, *Roman*, *Roselius*, *St. Amand*, *Soule*, *Splane*, *Trist*, *Voorhies* and *Winchester* voted in the negative—27 nays; consequently said motion was carried.

Mr. MAYO then moved for the reconsideration of the above vote.

The yeas and nays being called for,

Messrs. *Benjamin*, *Briant*, *Cenas*, *Conrad* of Orleans, *Conrad* of Jefferson,

Derbes, *Downs*, *DuBouchel*, *Eustis*, *Garcia*, *Ledoux*, *Legendre*, *Marigny*, *Mazureau*, *Porter*, *Preston*, *Roman*, *Roselius*, *Soulè*, *Splane*, *Trist* and *Voorhies* voted in the affirmative—22 yeas; and

Messrs. *Aubert*, *Beatty*, *Brazeale*, *Brent*, *Burton*, *Brumfield*, *Chambliss*, *Chinn*, *Culberston*, *Dunn*, *Guion*, *Hudspeth*, *Humble*, *Hynson*, *Kenner*, *Lewis*, *McCallop*, *McRae*, *Mayo*, *Peets*, *Prescott* of Avoyelles, *Prescott* of St. Landry, *Pugh*, *Read*, *Saunders*, *Scott* of Baton Rouge, *Scott* of Feliciana, *Scott* of Madison, *Sellers*, *Stephens*, *Taylor* of Assumption, *Taylor* of St. Landry, *Waddill*, *Wadsworth*, *Wederstrandt* and *Winder* voted in the negative—36 nays; consequently said motion was lost.

Mr. WADSWORTH gave notice that he would on to-morrow, move to reconsider the above vote.

On motion of Mr. TAYLOR of Assumption, the general provisions as reported and amended was adopted, viz:

TITLE VI.

GENERAL PROVISIONS.

ART. 89. Members of the general assembly, and all officers, before they enter upon the duties of their offices shall take the following oath or affirmation:

I (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States, and of this State; and I do further solemnly swear (or affirm) that since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, with a citizen of the State, nor have I sent or acepted a challenge to fight a duel with deadly weapons with a citizen of the State, nor have acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending, so help me God."

ART. 90. Treason against the State shall consist only in levying war against, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of tru or profit in this State, who shall have bee convicted of having given, or offered bribe to procure his election or appoin ment.

ART. 92. Laws shall be made to ex clude from office and from the right of su frage, those who shall hereafter be convic ed of bribery, perjury, forgery, or othe high crimes or misdemeanors.

The privilege of free suffrage shall b supported by laws regulating elections, an prohibiting under adequate penalties a undue influence thereon from powe bribery, tumult or other improper practic

ART. 93. No money shall be draw from the treasury but in pursuance of spe cific appropriations made by law, nor sha any appropriation of money be made for longer term than two years. A regula statement and account of the receipts an expenditures of all public money shall b published annually, in such manner a shall be prescribed by law.

ART. 94. It shall be the duty of the gen eral assembly to pass such laws as may b necessary and proper to decide difference by arbitration.

ART. 95. All civil officers for the Stat at large shall reside within the State, an all district or parish officers within thei districts or parishes, and shall keep thei offices at such places therein as may b required by law. No person shall b elected or appointed to any parish office who shall not have resided in such parish long enough before such election or ap pointment, to have acquired the right o voting in such parish; and no person shall be elected or appointed to any district office, who shall not have resided in such district, or an adjoining district, long enough before such appointment, or elec tion, to have acquired the right of voting in the same.

ART. 96. The duration of all offices not fixed by this constitution, shall never exceed four years.

ART. 97. All civil officers, except the governor and judges of the supreme and district courts, shall be removeable by an address of a majority of the members of both houses, except those the removal o whom has been otherwise provided for by this constitution.

ART. 98. Absence on business of this

tate or of the United State, shall not for-
it a residence once obtained, so as to de-
rive any one of the right of suffrage, or
f being elected or appointed to any office
nder the exceptions contained in this con-
itution.

ART 99. It shall be the duty of the le-
slature to provide by law for deductions
om the salaries of public officers who
ay be guilty of a neglect of duty.

ART. 100. The legislature shall point
t the manner in which a person coming
to the State shall declare his residence.

ART. 101. In all elections by the people
e vote shall be by ballot, and in all elec-
ons by the senate and house of represen-
tives, jointly or separately, the vote shall
e given *viva voce*.

ART. 102. No member of congress, nor
erson holding or exercising any office of
ust or profit under the United States, or
ther of them, or under any foreign power,
all be eligible as a member of the gene-
l assembly, or hold or exercise any office
f trust or profit under the State.

ART. 103. The laws, the public records
nd the judicial and legislative written pro-
edings of the State, shall be promulgated,
reserved and conducted in the language
which the constitution of the United
ates is written.

ART. 104. The secretary of the senate,
nd clerk of the house of representatives,
all be conversant with the French and
nglish languages, and members may ad-
ess either house in the French or English
nguage.

ART. 105 The general assembly shall
rect by law, how persons who are now,
may hereafter become sureties for pub-
officers, may be discharged from such
retyship.

ART. 106. No power of suspending the
ws of this State shall be exercised, unless
the Legislature or its authority.

ART. 107. Prosecutions shall be by in-
ctment, or information. The accused
all have a speedy public trial by an im-
rtial jury of the vicinage: he shall not be
mpelled to give evidence against himself;
shall have the right of being heard by
mself or counsel; he shall have the right,
less he shall have fled from justice, of
eeting the witnesses face to face, and
all have compulsory process for obtaining
itnesses in his favor.

ART. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or presumption great; and the privilege of the writ of *habeas corpus* shall hot be suspended, unless when in case of rebellion or invasion the public safety may require it.

ART. 109. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed; nor vested rights be divested unless for purposes of public utility, and for adequate compensation previously made,

ART. 110. The press shall be free. Every citizen may freely speak, write and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The general assembly which shall meet after the first election of representatives under this Constitution, shall, within the first month after the commencement of the session, designate and fix the seat of government, at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route; and if on the Mississippi river, by the meanders of the same: and when so fixed, it shall not be removed without the consent of four fifths of the members of both houses of the general assembly. The sessions shall be held in New Orleans until the end of the year 1848.

ART. 113. The legislature shall not pledge the faith of the State for the payment of any bonds, bills, or other contracts or obligations for the benefit or use of any person or persons, corporation or body politic whatever. But the State shall have the right to issue new bonds in payment of its outstanbing obligations or liabilities, whether due or not; the said new bonds, however, are not to be issued for a larger amount or at a higher rate of interest, than the original obligations they are intended to replace.

ART. 114. The aggregate amount of debts hereafter contracted by the legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions or suppres insurrections, unless the same be authorized by some law, for some single object or work, to be distinctly specified therein; which law shall provide ways and means, by taxation,

for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity, of the capital borrowed; and said law shall be irrepealable until principal and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

ART. 115. The legislature shall provide by law for a change of venue in civil and criminal cases.

ART. 116. No lottery shall be authorized by this State, and the buying or selling of lottery tickets within the State is prohibited.

ART. 117. No divorce shall be granted by the Legislature.

ART. 118. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

ART. 119. No law shall be revived or amended by reference to its title; but in such case, the act revived, or section amended, shall be re-enacted and published at length.

ART. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws; but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint stock company.

ART. 122. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

ART. 123. Corporations shall not be created in this State by special laws, except for political or municipal purposes; but the legislature shall provide by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

ART. 124. From and after the month of January, 1890, the legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

ART. 125. The general assembly shall never grant any exclusive privilege or mo nopoly, for a longer period than twenty years.

ART. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that o justice of the peace.

ART. 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property, on which taxes may be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species o property shall be taxed higher than another species of property of equal value, or which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

ART. 128. The citizens of the city o New Orleans shall have the right of appointing the several public officers necessary for the administration of the police o the said city, pursuant to the mode of elections which shall be prescribed by the legislature; provided, that the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

ART. 129. The legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

ART. 130. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons with a citizen of this State, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, with a citizen of this State, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this constitution.

ART. 131. The legislature shall have power to extend this constitution, and the jurisdiction of this State over any territory acquired by compact with any State, or

with the United States, the same being done by the consent of the United States.

ART. 132. The constitution and laws of this State. shall be promulgated in the English and French languages.

On motion, the Convention adjourned till to-morrow at 9 o'clock, a. m.

WEDNESDAY, May 14, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

Mr. READ, chairman of the committee on contingent expences, submitted the following report, and the same was adopted, viz:

"The committee on contingent expenses beg leave to submit the following report, in relation to the sale of furniture used by the Convention while sitting in the St. Louis Hotel:

Total amount of sales		$149,37½
Of this sum Mr. Ratliff, chairman of the committee on contingent expenses, collected		$108,37
From A. Boudousquie	$12,50	
" Jacob Humble	4,12½	
" A. Read	12,50	
" R. C. Hynson	6,25	
" J. B. Wederstrandt	2,00	
" H. Waddill	12,50	
" Jas. Carpenter	7,10	
" Geo. Eustis	3,66¾	
" W. Burton	,25	
" M. G. Penn	11,00	
" W. C. C. Claiborne	7,75	
" W. B. Scott	12,50	
Amount sold at auction	16,25	
		$108,39¼

All of which will more fully appear from vouchers in the treasurer's office. Mr. Ratliff authorized the committe to deposit his per diem and mileage warrants in the State treasury, amounting to one hundred and twelve dollars eighty cents, as security for the payment of the sum in his hands; which has been done.

Your committee has since collected the sum of fifteen dollars, to wit:

From Horatio Davis	$10,00
" Wm. Ruffier	5,00
	$15,00

which has been paid into the treasury.

Eighteen dollars are yet due by Mr. B. R. Mills, which will probably never be collected.

All which is submitted.

(Signed) A. READ,

Acting Chairman Com. contingent expenses."

Mr. READ submitted the following resolution, and the same was adopted, viz:

"*Resolved*, that the committee on contingent expenses be authorized to issue warrants in favor of W. Bloomfield, bookseller, for the sum of twenty dollars; in favor of A. Bruslé for five dollars; in favor of James Carpenter for five dollars and twenty-five cents; in favor of D. Jamier for twenty-five dollars."

Mr. SAUNDERS submitted the following, and the same was adopted, viz:

"*Ordered*, that this constitution be published in newspapers as follows, to wit.—In the New Orleans Bee, Louisiana Courier, Jeffersonian and Bulletin, and in all the country papers printed in the State, and the publishers of said papers shall each be entitled to receive from the treasury, on their own warrants, the sum of twenty-five dollars for the said publication, when made in English only, and fifty dollars when made in English and French; *Provided*, said publication be made within twenty days after the adjournment of the Convention."

On motion, the article on impeachment was taken up for third reading, and adopted, as reported, viz:

TITLE V.

IMPEACHMENT.

ART. 84. The power of impeachment shall be vested in the house of representatives.

ART. 85. Impeachments of the governor, lieutenant governor, attorney general, secretary of State, State treasurer, and the judges of the district courts, shall be tried by the senate; the chief justice of the supreme court, or the senior judge thereof, shall preside during the trial of such impeachments. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

ART. 86. Judgments in cases of im-

peachment shall extend only to removal from office and disqualification from holding any office of honor, trust or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial and punishment, according to law.

ART. 87. All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions during the pendency of such impeachment. The appointing power may make a provisional appointment to replace any suspended officer until the decision on the impeachment.

ART. 88. The legislature shall provide by law for the trial, punishment and removal from office of all other officers of the State, by indictment or otherwise.

On motion, the report of the committee of revision in relation to public education was taken up for its third reading, viz:

TITLE VII.

PUBLIC EDUCATION.

ART. 133. There shall be appointed a superintendent of public education, who shall hold his office for two years. His duties shall be prescribed by law. He shall receive compensation as the legislature may direct.

ART. 134. The legislature shall establish free public schools throughout the State, and shall provide means for their support by taxation on property or otherwise.

ART. 135. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of six per cent; which interest together with all the rents of the unsold lands, shall be appropriated to the support of such schools, and this appropriation shall remain inviolable.

ART. 136. All moneys arising from the sale which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which at six per cent per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than to the establishmeht and improvement of said seminary of learning.

ART. 137. An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

ART. 138. It shall be called "the University of Louisiana," and the Medical College of Louisian as at present organized, shall constitute the faculty of medicine.

ART. 139. The legislature shall provide by law, for its further organization and government; but shall be under no obligation to contribute to the establishment or support of said university by appropriations.

Mr. TAYLOR of Assumption moved to amend the first section by striking out the words "appointed" and insert in lieu thereof the words "elected by the qualified electors of the State."

The yeas and nays being called for,

Messrs. Beatty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Covillion, Hudspeth, Humble, Hynson, Ledoux, Lewis, McCallop, McRae, Mayo, Peets, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Prudhomme, Pugh, Read, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Stephens, Taylor of Assumption, Taylor of St. Landry, Wederstrandt and Waddill voted in the affirmative—35 yeas; and

Messrs. Aubert, Benjamin, Briant, Cénas, Chinn, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Garrett, Grymes, Guion, Labauve, Legendre, Marigny, Mazureau, Roman, Roselius, St. Amand, Voorhies, Winchester and Winder voted in the negative—25 nays; consequently the motion was lost, and the said report was adopted as reported above.

On motion, the report of the committee of revision, on the mode of revising the constitution was taken up for its third reading, viz:

TITLE VIII.

MODE OF REVISING THE CONSTITUTION.

ART. 140. 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 three-fifths of the members elected to each house and approved by the governor, such proposed amendment or amendments, shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published three months before the next general election, in at least one newspaper in French and English, in every parish in the State in which a newspaper shall be published; and if, in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same to be again published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the qualified electors shall approve and ratify such amendment or amendments, the same shall become a part of the constitution: If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment, separately.

Mr. TAYLOR of Assumption moved to amend said article by striking out in the fourth line the words "three-fifths," and insert in lieu thereof "a majority."

The yeas and nays being called for,

Messrs. Brazeale, Brent, Brumfield, Cade, Chambliss, Covillion, DuBouchel, Garrett, Humble, Hynson, Ledoux, McCallop, McRae, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Preston, Read, Scott of Baton Rouge, Scott of Madison, Stephens, Taylor of Assumption, Voorhies, Waddill and Wederstrandt voted in the affirmative—28 yeas; and

Messrs. Aubert, Beatty, Benjamin, Boulousquie, Bourg, Briant, Burton, Carriere, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Dunn, Eustis, Garcia, Grymes, Guion, Hudspeth, Kenner, Labauve, Legendre, Lewis, Marigny, Mazureau, Prudhomme, Pugh, Roman, Roselius, St. Amand, Sellers, Soulé, Taylor of St. Landry, Wadsworth, Winchester and Winder voted in the negative—38 nays; consequently said motion was lost, and the report was adopted.

On motion, the schedule was taken up for its third reading, as follows, viz:

TITLE IX.

SCHEDULE.

ART. 141. The Constitution adopted in 1812 is declared to be superseded by this Constitution, and in order to carry the same into effect, it is hereby declared and ordained as folllows:

ART. 142. All rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith shall continue as if the same had not been adopted.

ART. 143. Until the first enumeration shall be made as directed in article eighth, of this Constitution, the parish of Orleans shall have twenty representatives, to be elected as follows, viz:

Eight by the First Municipality, seven by the Second Municipality, and four by the Third Municipality, to be distributed among the nine representative districts as follows, by allotting to the

First district,		two Rep.
Second	"	two
Third	"	three
Fourth	"	three
Fifth	"	three
Sixth	"	two
Seventh	"	two
Eighth	"	one
Ninth	"	one

And to that part of the parish on the right bank of the Mississippi, one

The parish of Plaquemines, shall have		three
"	St. Bernard,	one
"	Jefferson,	three
"	St. Charles,	one
"	St. John the Baptist,	one
"	St. James,	two
"	Ascension,	two
"	Assumption,	three
"	Lafourche Interior,	three
"	Terrebone,	two
"	Iberville,	two

The parish of	West Baton Rouge,	one
"	East do.	three
"	West Feliciana,	two
"	East do	three
"	St. Helena,	one
"	Washington,	one
"	Livingston,	one
"	St. Tammany,	one
"	Point Coupée,	one
"	Concordia,	one
"	Tensas,	one
"	Madison,	one
"	Carroll,	one
"	Franklin,	one
"	St. Mary,	two
"	St. Martin,	three
"	Vermillion,	one
"	Lafayette,	two
"	St. Landry,	five
"	Calcasieu,	one
"	Avoyelles	two
"	Rapides,	three
"	Natchitoches,	three
"	Sabine,	two
"	Caddo,	one
"	De Soto,	one
"	Ouachita,	one
"	Morehouse,	one
"	Union	one
"	Jackson,	one
"	Caldwell,	one
"	Catahoula,	two
"	Claiborne,	two
"	Bossier,	one

Total, ninety-eight.

And the State shall be divided into the following senatorial districts:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall compose one senatorial district, and shall elect four senators;

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans lying on the right bank of the river, shall compose one district, with one senator;

The parish of Jefferson shall compose one district, with one senator;

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator;

The parish of St. James shall compose one district, with one senator;

The parish of Ascension shall compose one district with one senator;

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators;

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator;

The parish of East Baton Rouge shall compose one district, with one senator;

The parish of Point Coupée shall compose one district, with one senator;

The parish of Avoyelles shall compose one district, with one senator;

The parish of St. Mary shall compose one district, with one senator;

The parish of St. Martin shall compose one district, with one senator;

The parishes of Lafayette and Vermillion shall compose one district, with one senator;

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators;

The parish of West Feliciana shall compose one district, with one senator;

The parish of East Feliciana shall compose one district, with one senator;

The parishes of St. Helena and Livingston shall compose one district, with one senator;

The parishes of Washington and St. Tammany, shall compose one district, with one senator;

The parishes of Concordia and Tensas shall compose one district with one senator;

The parishes of Carroll and Madison shall compose one district, with one senator;

The parishes of Jackson, Union, Morehouse and Ouachita shall compose one district, with one senator;

The parishes of Caldwell, Franklin and Catahoula shall compose one district, with one senator;

The parish of Rapides shall compose one district, with one senator;

The parishes of Bossier and Claiborne shall compose one district, with one senator;

The parish of Natchitoches shall compose one district, with one senator;

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator;

And whenever a new parish shall be created, it shall be attached to the senatorial dis-

rict from which most of its territory was aken or to another contiguous district at hediscretion of the legislature, but shall not ɔe attached to more than one district.

Art. 144. In order that no inconveni-ence may result to the public service from he taking effect of this Constititution, no office shall be superseded thereby; but the laws of the State relative to the duties of he several officers, executive, judicial and nilitary, shall remain in full force, though he same be contrary to this Constitution. and the several duties shall be performed by the respective officers of the State accor-ding to the existing laws, until the organi-zation of the government under this Con-stitution, and the entering into office of the new officers, to be appointed under said government, and no longer.

Art. 145. Appointments to office by the executive under this Constitutton, shall be made by the governor to be elected un-der its authority.

Art. 146. The provisions of article 28, concerning the inability of members of the legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first legislature elected unde r this Constitution.

Art. 147. The time of service of all of-ficers chosen by the people, at the first election under this Constitution, shall ter-minate as though the election had been hol-den on the first Monday of November 1845, and they had entered on the discharge of their duties at the time designated therein.

Art. 148. The legislature shall provide for the removal of all causes now pending in the supreme or other courts of the courts under the Constitution of 1812, to State created by this Constitution.

Art. 149. Appeals to the supreme court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachi-ta, Franklin, Carroll, Madison, Tensas, and Concoreia, shall until otherwise provi-dod for, be returnable to New Orleans.

Mr. Winchester moved to amend the first ordinance by striking out the words "and under this constitution."

The yeas and nays being called for;

Messrs. Aubert, Beatty, Benjamin, Bou-dousquie, Bourg, Briant, Cade, Cenas, Chinn, Claiborne, Conrad of Orleans, Conrad of Jefferson, Culbertson, Derbes, Garcia, Guion, Hudspeth, Keneer, La-bauve, Legendre, Lewis, Marigny, Mazu-reau, Pugh, Roman, Roselius, St. Amand, Saunders, Sellers, Taylor, of St. Landry, Wadsworth, Winchester and Winder voted in the affirmative—33 yeas; and

Messrs. Brazeale, Brent, Brumfield, Burton, Carriere, Chambliss, Covillion, Downs, DuBouchel, Eustis, Garrett, Hyn-son, Humble, Ledoux, McCallop, McRae, May, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Pres-ton, Prudhomme, Read, Scott of Baton Rouge, Scott of Madison, Splane, Ste-phens, Taylor of Assumption, Trist, Voor-hies, Waddill and Wederstrandt voted in the negative —34 nays; consequently said motion was lost, and the schedule was adopted as reported above.

It being the hour fixed, Mr. Voorhies moved that the vote be taken on the final passage of the constitution.

The yeas and nays being called for,

Messrs. Joseph Walker, president, Beat-ty, Bourg, Brazeale, Brent, Brumfield, Burton, Cade, Carriere, Chambliss, Chinn, Covillion, Culbertson, Downs, DuBouchel, Dunn, Eustis, Garrett, Guion, Hudspeth, Humble, Hynson, Kenner, Labauve, Le-doux, Lewis, McCallop, McRae, Marigny, Mayo, Peets, Penn, Porter, Prescott of Avoyelles, Prescott of St. Landry, Pres-ton, Prudhomme, Pugh, Read, Roselius, Saunders, Scott of Baton Rouge, Scott of Madison, Sellers, Soulé, Splane, Stephens, Taylor of Assumption, Taylor of St. Lan-dry, Trist, Voorhies, Waddill, Wadsworth, Wederstrandt and Winder voted in the af-firmative—55 yeas;and

Messrs. Aubert, Benjamin, Boudousquie, Briant, Cenas, Claiborne, Conrad of Or-leans, Conrad of Jefferson, Derbes, Garcia, Legendre, Mazureau, Roman, St. Amand and Winchester voted in the negative—15 nays; consequently said motion was car-ried, and the constitution adopted, as fol-lows, viz:

CONSTITUTION OF THE STATE OF LOUISIANA.

PREAMBLE.

We the people of the State of Louisiana do ordain and establish this Constitution.

TITLE I.

DISTRIBUTION OF POWERS.

Art. 1. The powers of the government of the State of Louisiana shall be divided

into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one; those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The legislative powers of the State shall be vested in two distinct branches, the one to be styled the "house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November, every two years; and the election shall be completed in one day. The general assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed by law, and their session shall be held at the seat of government.

ART. 6. No person shall be a representative, who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

ART. 7. Elections for representatives for the several parishes or representative districts shall be held at the several election precincts established by law. The legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives, shall be equal and uniform, and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one representative; no new parish shall be created with a territory less than six hundred and twenty-five square miles, ner with a number of electors less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first enumeration to be made by the State authorities under this constitution shall be made in the year 1847, the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law for the purpose of ascertaining the total population and the number of qualified electors in each parish and election district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election districts on the basis of qualified electors as aforesaid. A representative number shall be fixed, and each parish and election district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi, shall be divided into nine representative districts, as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district to extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district to comprise the residue of the Second Municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of St. Louis street, until it reaches the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district to extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its interseetion with the bayou St. John, thence

along the middle of said bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district to be composed of the residue of the First Municipality.

7th. Seventh district, from the middle Esplanade street to the middle of Champs Elysées street.

8th. Eighth district, from the middle of Champs Elysées street to the middle of Enghein street and Lafayette Avenue.

9th. Ninth district, from the middle of Enghein street and Lafayette Avenue to the lower limits of the parish.

ART. 9. The house of representatives shall choose its speaker and other officers.

ART. 10. In all elections by the people, every free white male who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. *Provided*, that no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall, in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

ART. 11. Absence from the State for more than ninety consecutive days, shall interrupt the acquisition of the residence required in the preceding article, unless the person absenting himself shall be a housekeeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrying on business shall be actually occupied during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

ART. 12. No soldier, seaman or marine in the army or navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in the State.

ART. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and in cities and towns divided into election precincts, in the election precinct in which he resides.

ART. 14. The members of the senate shall be chosen for the term of four years. The senate when assembled, shall have the power to choose its officers every two years.

ART. 15. The legislature in every year in which they shall apportion representation in the house of representatives shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if in the apportionment to be made, a parish or district fall short of or exceed the ratio, one-fifth, then a district may be formed having not more than two senators, but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the eighth article, the legislature shall not pass any laws until an apportionment of the representation in both houses of the general assembly be made.

ART. 17. At the first session of the general assembly, after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year; so that one-half shall be chosen

every two years, and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them.

ART. 18. No person shall be a senator, who at the time of his election, has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and the last year thereof in the district in which he may be chosen.

ART. 19. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

ART. 20. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorised by law to compel the attendance of absent members.

ART. 21. Each house of the general assembly shall judge of the qualification, election and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 22. Each house of the general Assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and with the concurrence of two-thirds expel a member, but not a second time for the same offence.

ART. 23. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 24. Each house may punish by imprisonment any person not a member, for disrespectful and disorderly behavior, in its presence or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 25. Neither house, during the session of the general assembly, shall without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 26. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alterations shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days, shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

ART. 27. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses; and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

ART. 28. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

ART. 29. No person, while he continues to exercise the functions of a clergyman, priest or teacher of any religious persuasion, society or sect, shall be eligible to the general assembly.

ART. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any other office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

ART. 31. No bill shall have the force of a law until on three several days, it be read

over in each house of the general assembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house, where the bill shall be pending, may deem it expedient to dispense with this rule.

ART. 32. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills; *provided*, they shall not introduce any new matter under the color of an amendment which does not relate to raising revenue.

ART. 33. The general assembly shall regulate by law, by whom, and in what manner, writs of election shall be issued, to fill the vacancies which may happen in either branch thereof.

ART. 34. A majority of all the members elected to the senate, shall be required for the confirmation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

ART. 35. Returns of all elections for members of the general assembly shall be made to the secretary of state.

ART. 36. A treasurer of the State shall be elected biennially, by joint ballot of the two houses of the general assembly. The governor shall have the power to fill any vacancy that may happen in that office during the recess of the legislature.

ART. 37. In the year in which a regular election of a senator of the United States is to take pluce, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

TITLE III.

EXECUTIVE DEPARTMENT.

ART. 38. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years; and together with the lieutenant governor chosen for the same term, be elected as follows:—The qualified electors for representatives, shall vote for a governor and lieutenant governor, at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer to the secretary of state; who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly, then next to be holden. The members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected, but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor shall be lieutenant governor, but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor by joint vote of the members of the general assembly.

ART. 39. No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within this State for the same space of time next preceding his election.

ART. 40. The governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and shall have taken the oath or affirmation prescribed by this Constitution.

ART. 41. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 42. No member of congress or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant governor.

ART. 43. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor for the resi-

due of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability; or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor, and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

Art. 44. The lieutenant governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he continued in office.

Art. 45. The lieutenant governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate the senators shall elect one of their own members as president of the senate for the time being.

Art. 46. While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

Art. 47. The governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures, after conviction. In cases of treason he may grant reprieves, until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

Art. 48. The governor shall at stated times receive for his services a compensation, which shall neither be increased or diminished during the term for which he shall have been elected.

Art. 49. He shall be commander-in-chief of the army and navy of this State and of the militia thereof, except when they shall be called into the service of the United States.

Art. 50. He shall nominate, and by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, and whose appointment is not therein otherwise provided for: Provided, however, that the legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

Art. 51. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution; but no person who has been nominated for office, and rejected by the senate, shall be appointed to the same office during the recess of the senate

Art. 52. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Art. 53. He shall from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

Art. 54. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place if that should become dangerous from an enemy or from epidemics; and in case of disagreemet between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

Art. 55. He shall take care that the laws be faithfully executed.

Art. 56. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as

if he had signed it, unless the general assembly by adjournment, prevent its return; in which case it shall bea law, unless sent back within three days after their next meeting.

Art. 57. Every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected to each house of the general assembly.

Art. 58. There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and when necessary shall attest them. He shall, when required, lay the said register, and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

Art. 59. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

Art. 60. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equvalent for personal services.

Art. 61. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

TITLE IV.

JUDICIARY DEPARMENT.

Art. 62. The judicial power shall be vested in a supreme court, in district courts and in justices of the peace.

Art. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases when the matter in dispute shall exceed three hundred dollars, to all cases in which the constitutionality of any tax, toll, or impost of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures and penalties imposed by municipal corporations; and in criminal cases on questions of law alone, whenever the punishment of death or hard labor may be inflicted; or when a fine exceeding three hundred dollars is actually imposed.

Art. 64. The supreme court shall be composed of one chief justice and of three associate judges, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars, annually. The said court shall appoint its own clerks. The said judges shall be appointed for the term of eight years.

Art. 65. When the first appointments are made under this constitution, the chief justice shall be appointed for the term of eight years, one of the associate judges for six years, one for four years and one for two years; and in the event of the death, resignation, or removal of any of said judges, before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of his term: so that the term of office of no two of said judges shall expire at the same time.

Art. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

Art. 67. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

Art. 68. In all cases in which the judges shall be equally dived in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinion in writing.

Art. 69. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "the State of Louisiana." All prosecutions shall be carried on "in the name and by the authority of the State

of Louisiana," and conclude "against the peace and dignity of the same."

ART. 70. The judges of all courts within this State shall, as often as it is possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which such judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings, except for the payment of such fees to the ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office, or other compension than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonsable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly. In every such case, the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART. 75. The first legislature assembled under this constitution, shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shell not be less than twelve, nor more than twenty.

For each district one judge, learned in the law shall be appointed, except in the district in which the cities of New Orleans and Lafayette are situated, in which the legislature many establish as many district courts as the public interest may require.

ART. 76. Each of the said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, and shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practiced law therein for the space of five years.

ART. 77. The judges of the district courts shall hold their offices for the term of six years. The judges first appointed shall be divided by ballot into three classes, as nearly equal as can be; and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

ART. 78. The district courts shall have original jurisdiction in all civil cases when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the furtherance of the administration of justice; and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts snall be removable, for breach of good behavior, by the judges thereof, subject in all cases to an appeal to the supreme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed in civil cases the sum of one hundred dollars, exclusive of interest, subject to an appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish, for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the disirict courts in this State shall be elected by the qualified electors in each parish for the term of four years, and should a vacancy occur subsequent to an election, it shall be filled by

he judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 83. A sheriff and a coroner shall be elected in each parish, by the qualified voters thereof, who shall hold their offices for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

TITLE V.

IMPEACHMENT.

ART. 84. The power of impeachment shall be vested in the house of representatives.

ART. 85. Impeachments of the governor, lieutenant governor, attorney general, secretary of State, State treasurer, and the judges of the district courts, shall be tried by the senate; the chief justice of the supreme court, or the senior judge thereof, shall preside during the trial of such impeachments. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

ART. 86. Judgments in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial and punishment, according to law.

ART. 87. All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions during the pendency of such impeachment. The appointing power may make a provisional appointment to replace any suspended officer until the decision on the impeachment.

ART. 88. The legislature shall provide by law for the trial, punishment and removal from office of all other officers of the State, by indictment or otherwise.

On motion, the report of the committee of revision in relation to public education was taken up for its third reading, viz:

TITLE VI.

GENERAL PROVISIONS.

ART. 89. Members of the general assembly, and all officers, before they enter upon the duties of their offices shall take the following oath or affirmation:

I (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States, and of this State; and I do further solemnly swear (or affirm) that since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, with a citizen of the State, nor have I sent or acepted a challenge to fight a duel with deadly weapons with a citizen of the State, nor have acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending, so help me God."

ART. 90. Treason against the State shall consist only in levying war against, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given, or offered a bribe to procure his election or appointment.

ART. 92. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors.

The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult or other improper practice.

ART. 93. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money shall be

published annually, in such manner as shall be prescribed by law.

ART. 94. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitration.

ART. 95. All civil officers for the State at large shall reside within the State, and all district or parish officers within their districts or parishes, and shall keep their offices at such places therein as may be required by law. No person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election or appointment, to have acquired the right of voting in such parish; and no person shall be elected or appointed to any district office, who shall not have resided in such district, or an adjoining district, long enough before such appointment, or election, to have acquired the right of voting in the same.

ART. 96. The duration of all offices not fixed by this constitution, shall never exceed four years.

ART. 97. All civil officers, except the governor and judges of the supreme and district courts, shall be removeable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

ART. 98. Absence on business of this State or of the United State, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

ART 99. It shall be the duty of the legislature to provide by law for deductions from the salaries of public officers who may be guilty of a neglect of duty.

ART. 100. The legislature shall point out the manner in which a person coming into the State shall declare his residence.

ART. 101. In all elections by the people the vote shall be by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce.*

ART. 102. No member of congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

ART. 103. The laws, the public records and the judicial and legislative written proceedings of the State, shall be promulgated, preserved and conducted in the language in which the constitution of the United States is written.

ART. 104. The secretary of the senate and clerk of the house of representatives, shall be conversant with the French and English languages, and members may address either house in the French or English language.

ART. 105 The general assembly shall direct by law, how persons who are now, or may hereafter become sureties for public officers, may be discharged from such suretyship.

ART. 106. No power of suspending the laws of this State shall be exercised, unless by the Legislature or its authority.

ART. 107. Prosecutions shall be by indictment, or information. The accused shall have a speedy public trial by an impartial jury of the vicinage: he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right, unless he shall have fled from justice, of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor.

ART. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or presumption great; and the privilege of the writ of *habeas corpus* shall hot be suspended, unless when in case of rebellion or invasion the public safety may require it.

ART. 109. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed; nor vested rights be divested unless for purposes of public utility, and for adequate compensation previously made,

ART. 110. The press shall be free. Every citizen may freely speak, write and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The general assembly which shall meet after the first election of representatives under this Constitution, shall

vithin the first month after the commence-
nent of the session, designate and fix the
eat of government, at some place not less
han sixty miles from the city of New Or-
eans, by the nearest travelling route ; and
f on the Mississippi river, by the mean-
ers of the same : and when so fixed, it
hall not be removed without the consent
f four fifths of the members of both hous-
s of the general assembly. The sessions
hall be held in New Orleans until the end
f the year 1848.

ART. 113. The legislature shall not
ledge the faith of the State for the pay-
ient of any bonds, bills, or other contracts
r obligations for the benefit or use of any
erson or persons, corporation or body po-
tic whatever. But the State shall have
ie right to issue new bonds in payment of
s outstanbing obligations or liabilities,
vhether due or not; the said new bonds,
owever, are not to be issued for a larger
mount or at a higher rate of interest, than
he original obligations they are intended
o replace.

ART. 114. The aggregate amount of
ebts hereafter contracted by the legisla-
ire, shall never exceed the sum of one
undred thousand dollars, except in case
f war, to repel invasions or suppres insur-
ections, unless the same be authorized by
ome law, for some single object or work, to
e distinctly specified therein ; which law
hall provide ways and means, by taxation,
r the payment of running interest during
he whole time for which said debt shall be
ontracted, and for the full and punctual
ischarge at maturity, of the capital bor-
owed ; and said law shall be irrepealable
ntil principal and interest are fully paid
nd discharged, and shall not be put into
xecution until after its enactment by the
rst legislature returned by a general
lection after its passage.

ART. 115. The legislature shall pro.
ide by law for a change of venue in civil
nd criminal cases.

ART. 116. No lottery shall be author.
ed by this State, and the buying or selling
f lottery tickets wiihin the State is prohi-
ited.

ART. 117. No divorce shall be granted
y the Legislature.

ART. 118. Every law enacted by the le-
islature shall embrace but one object, and
hat shall be expressed in the title.

ART. 119. No law shall be revived or amended by reference to its title ; but in such case, the act revived, or section amended, shall be re-enacted and published at length.

ART. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws ; but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint stock company.

ART. 122. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

ART. 123. Corporations shall not be created in this State by special laws, except for political or municipal purposes ; but the legislature shall provide by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

ART. 124. From and after the month of January, 1890, the legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

ART. 125. The general assembly shall never grant any exclusive privilege or monopoly, for a longer period than twenty years.

ART. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace.

ART. 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property, on which taxes may be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

ART. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers neces-

sary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the legislature; provided, that the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

ART. 129. The legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

ART. 130. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons with a citizen of this State, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, with a citizen of this State, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this constitution.

ART. 131. The legislature shall have power to extend this constitution, and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

ART. 132. The constitution and laws of this State shall be promulgated in the English and French languages.

TITLE VII.

PUBLIC EDUCATION.

ART. 133. There shall be appointed a superintendent of public education, who shall hold his office for two years. His duties shall be prescribed by law. He shall receive compensation as the legislature may direct.

ART. 134. The legislature shall establish free public schools throughout the State, and shall provide means for their support by taxation on property or otherwise.

ART. 135. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of six per cent; which interest together with all the rents of the unsold lands, shall be appropriated to the support of such schools, and this appropriation shall remain inviolable.

ART. 136. All moneys arising from the sale which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which at six per cent per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than the establishmeht and improvement of said seminary of learning.

ART. 137. An university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of law, one of medicine, one of the natural sciences, and one of letters.

ART. 138. It shall be called "the University of Louisiana," and the Medical College of Louisian as at present organized shall constitute the faculty of medicine.

ART. 139. The legislature shall provide by law, for its further organization and government; but shall be under no obligation to contribute to the establishment or support of said university by appropriations.

TITLE VIII.

MODE OF REVISING THE CONSTITUTION.

ART. 140. Any amendment or amendments to this Constitution may be proposed to the senate or house of representatives, and if the same shall be agreed to by three-fifths of the members elected to each house, and approved by the governor such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published, three months before the next general election, in at least one newspa-

bers in French and English, in every parish in the State in which a newspaper shall be published; and if, in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the qualified electors shall approve and ratify such amendment or amendments, the same shall become a part of the constitution. If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment, separately.

TITLE IX.

SCHEDULE.

ART. 141. The Constitution adopted in 1812 is declared to be superseded by this Constitution, and in order to carry the same into effect, it is hereby declared and ordained as folllows:

ART. 142. All rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith shall continue as if the same had not been adopted.

ART. 143. Until the first enumeration shall be made as directed in article eighth, of this Constitution, the parish of Orleans shall have twenty representatives, to be elected as follows, viz:

Eight by the First Municipality, seven by the Second Municipality, and four by the Third Municipality, to be distributed among the nine representative districts as follows, by allotting to the

First district,		two Rep.
Second	"	two
Third	"	three
Fourth	"	three
Fifth	"	three
Sixth	"	two
Seventh	"	two
Eighth	"	one
Ninth	"	one

And to that part of the parish on the right bank of the Mississippi, one

The parish of Plaquemines, shall have three
" St. Bernard, one
" Jefferson, three
" St. Charles, one
" St. John the Baptist, one
" St. James, two
" Ascension, two
" Assumption, three
" Lafourche Interior, three
" Terrebone, two
" Iberville, two
The parish of West Baton Rouge, one
" East do. three
" West Feliciana, two
" East do three
" St. Helena, one
" Washington, one
" Livingston, one
" St. Tammany, one
" Point Coupée, one
" Concordia, one
" Tensas, one
" Madison, one
" Carroll, one
" Franklin, one
" St. Mary, two
" St. Martin, three
" Vermillion, one
" Lafayette, two
" St. Landry, five
" Calcasieu, one
" Avoyelles two
" Rapides, three
" Natchitoches, three
" Sabine, two
" Caddo, one
" De Soto, one
" Ouachita, one
" Morehouse, one
" Union one
" Jackson, one
" Caldwell, one
" Catahoula, two
" Claiborne, two
" Bossier, one

Total, ninety-eight.

And the State shall be divided into the following senatorial districts:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall compose one senatorial district, and shall elect four senators;

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans lying on the right bank of the river,

shall compose one district, with one senator;

The parish of Jefferson shall compose one district, with one senator;

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator;

The parish of St. James shall compose one district, with one senator;

The parish of Ascension shall compose one district with one senator;

The parishes of Assumptton, Lafourche Interior and Terrebonne shall compose one district, with two senators;

The parishes of Iberville and West Baton Rouge shall compose one district, with one senator;

The parish of East Baton Rouge shall compose one district, with one senator;

The parish of Point Coupée shall compose one district, with one senator;

The parish of Avoyelles shall compose one district, with one senator;

The parish of St. Mary shall compose one distrtct, with one senator;

The parish of St. Martin shall compose one district, with one senator;

The parishes of Lafayette and Vermillion shall compose one district, with one senator;

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators;

The parish of West Feliciana shall compose one district, with one senator;

The parish of East Feliciana shall compose one district, with one senator;

The parishes of St. Helena and Livingston shall compose one district, with one senator;

The parishes of Washington and St. Tammany, shall compose one district, with one senator;

The parishes of Concordia and Tensas shall compose one district with one senator;

The parishes of Carroll and Madison shall compose one district, with one senator;

The parishes of Jackson, Union, Morehouse and Ouachita shall compose one district, with one senator;

The parishes of Caldwell, Franklin and Catahoula shall compose one district, with one senator;

The parish of Rapides shall compose one district, with one senator;

The parishes of Bossier and Claiborne shall compose one district, with one senator;

The parish of Natchitoches shall compose one district, with one senator;

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator;

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken or to another contiguous district at thediscretion of the legislature, but shall not be attached to more than one district.

Art. 144. In order that no inconvenience may result to the public service from the taking effect of this Constititution, no office shall be superseded thereby; but the laws of the State relative to the duties of the several officers, executive, judicial and military, shall remain in full force, though the same be contrary to this Constitution, and the several duties shall be performed by the respective officers of the State according to the existing laws, until the organization of the government under this Constitution, and the entering into office of the new officers, to be appointed under said government, and no longer.

Art. 145. Appointments to office by the executive under this Constitutton, shall be made by the governor to be elected under its authority.

Art. 146. The provisions of article 28, concerning the inability of members of the legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first legislature elected under this Constitution.

Art. 147. The time of service of all officers chosen by the people, at the first election under this Constitution, shall terminate as though the election had been holden on the first Monday of November 1845, and they had entered on the discharge of their duties at the time designated therein.

Art. 148. The legislature shall provide for the removal of all causes now pending in the supreme or other courts of the courts under the Constitution of 1812, to State created by this Constitution.

Art. 149. Appeals to the supreme court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas, and Concoreia, shall until otherwise provided for, be returnable to New Orleans.

TITLE X.

ORDINANCE.

ART. 150. Immediately after the adjournment of the Convention, the governor shall issue his proclamation, directing the several officers of this State authorized by law to hold elections for members of the general assembly, to open and hold a poll in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of the said officers to recive the votes of all persons entitled to vote under the old constitution and under this constitution. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written "the constitution accepted," or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the parish judges and commissioners designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of state, in conformity to the provisions of the existing law upon the subject of elections.

ART. 151. Upon the receipt of the said returns, or on the first Monday of December, if the returns be not sooner received, it shall be the duty of the governor, the secretary of state, the attorney general, and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given at the said poll, for the ratification and rejection of this constitution, and if it shall appear from said returns that a majority of all the votes given is for ratifying this constitation, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of the State of Louisiana. But whether this constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the polls, showing the number of votes cast in each parish, for and against the said constitution.

ART. 152. Should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation declaring the present legislature elected under the old constitution, to be dissolved, and directing the several officers of the State, authorized by law, to hold elections for members of the general assembly, to hold an election at the places designated by law, on the third Monday in January next, (1846) for governor, lieutenant governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution. And the said election shall be conducted and the returns thereof made in conformity with existing laws upon the subject of State elections.

ART. 153. The general assembly elected under this constitution shall convene at the state house, in the city of New Orleans, upon the second Monday of February next, (1846) after the elections; and that the governor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

Mr. ROMAN submitted the following reasons for not voting in favor of the adoption of the constitution, and the same were ordered to be inserted in the journal, viz:

I will vote against the adoption, because I think that this Convention would never have been called, if a majority of the people would have foreseen that the constitution of 1812 would be entirely put down, and another adopted, in which almost every conservative principle has been set aside.

Because in extending the right of suffrage, sufficient care has not been taken to confide it to those only who are identified with the State, and no guide has been given to the officers who are to preside over the elections to enable them to decide, who are those who ought and those who ought not to vote.

Because the senate has been so framed as to form no check in the popular branch of the legislature, and this last has been rendered so numerous as to be too unwieldly and too expensive.

Because the tenure of office of the judges of the supreme and district courts is such as not to render them independent of the party politics of the day, and the election

by the people of justices of the peace, clerks of courts and sheriffs, is calculated to jeopardize still more the impartial administration of justice.

For these reasons, and also because a part of this constitution is actually put in force without being submitted to the assent of the people, I vote No.

Mr. KENNER offered the following resolution, and the same was unanimously adopted, viz:

"*Resolved*, That the thanks of this Convention be tendered to the Hon. Joseph Walker, president of the Convention, for the able and impartial manner with which he has presided over our deliberations.

Mr. CADE submitted the following resolution, and the same was unanimously adopted, viz:

Resolved, That the thanks of this Convention be tendered to Horatio Davis, Esq., our secretary, for his assiduous attention to business, and for the correct and faithful discharge of his important duties.

Mr. SELLERS submitted the following resolution, and the same was unanimously adopted, viz:

Resolved, That the thanks of this Convention be tendered to the clergy of this city.

Mr. BEATTY offered the following resolution, viz:

Resolved, That the secretary and minute clerk, and other clerks, be continued in their functions for a space not exceeding one month from the adjournment of this Convention, and that the secretary be directed to superintend the printing and distribution of the debates and constitution, and completion of the journals. That the secretary be authorized to draw his own warrant for their compensation.

Mr. DOWNS moved to amend said resolution, by adding "and the printers to the Convention."

Mr. DOWNS moved to lay the resolution and amendment on the table, subject to call; which motion was lost.

Mr. CADE then moved to lay the amendment on the table indefinitely; which motion prevailed.

On motion of Mr. BEATTY, the resolution was adopted.

Mr. GARCIA submitted the following resolution, viz:

Resolved, That an additional compensation at the rate of two dollars per day, from the commencement of the session at New Orleans to the close of their labors, be allowed to each of the reporters, Messrs. Foulhouse and Kerr.

Mr. GARCIA moved for the adoption of the above resolution; which motion was lost.

Mr. GUION offered the following resolution, and the same was adopted, viz:

Resolved, That the committee on contingent expenses be instructed to enquire whether any additional compensation ought to be granted to the English and French printers to this Convention.

Mr. SOULE offered the following resolution, viz:

Resolved, That a period not to exceed thirty days be allowed to the reporters to conclude their labors, in compensation for which they shall be paid by the treasurer on their warrant, countersigned by the secretary.

Mr. BRENT moved to amend the same by inserting "fifteen" instead of "thirty days;" which motion was lost.

On motion, the Convention adjourned till to-morrow at 9 o'clock, a. m.

THRUSDAY, MAY 15, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. CLARK opened the proceedings with prayer.

Mr. READ offered the following resolution, and the same was adopted, viz:

Resolved, That the sum of twelve dollars be allowed John E. Layet, for service rendered as additional clerk for two days.

Mr. READ then offered the following resolution, and the same was adopted, viz:

Resolved. That the sum of one hundred dollars be allowed D. O. Nadaud, as extra compensation for his services as recording clerk.

On motion, the committee of enrollment was authorized to fix the compensation of the enrolling and engrossing clerks, and draw a warrant on the treasury for the payment of the same.

Mr. CHINN moved that an additional compensation of one hundred dollars be allowed to Mr. James Carpenter, sergeant-at-arms.

Mr. DOWNS moved to amend the said resolution by adding the same compensa

tion to all the other officers of the Convention.

Mr. Lewis moved to lay the resolution and amendment on the table indefinitely.

The yeas and nays being called for,

Messrs. Benjamin, Brazeale, Brumfield, Burton, Cade, Chambliss, Claiborne, Conrad of Jefferson, DuBouchel, Eustis, Hudspeth, Humble, Labauve, Ledoux, Legendre, Lewis, McCallop, McRae, Mazureau, Peets, Prescott of St. Landry, Prudhomme, Saunders, Scott of Baton Rouge, Sellers, Splane, Taylor of Assumption, Taylor of St. Landry, Voorhies Waddill and Wadsworth voted in the affirmative—31 yeas, and

Messrs. Briant, Cénas, Chinn, Derbes, Marigny, Porter, Scott of Madison, Soulé and Wederstrandt voted in the negative—9 nays, consequently said motion was carried.

Mr. McCallop moved that James Carpenter be allowed mileage to and from Jackson to New Orleans.

Mr. Derbes moved to amend the same by allowing mileage to the other officers.

Mr. Cade moved to lay the motion of Mr. McCallop, and amendment, on the table indefinitely.

The yeas and nays being called for,

Messrs. Benjamin, Brazeale, Brumfield, Brent, Burton, Cade, Chambliss, Conrad of Jefferson, Covillion, DuBouchel, Humble, Labauve, Lewis, McRae, Mazureau, Prescott of St. Landry, Prudhomme, Splane, Stephens and Voorhies voted in the affirmative—20 yeas; and

Messrs. Briant, Cenas, Chinn, Derbes, Dunn, Eustis, Garcia, Legendre, McCallop, Marigny, Porter, Read, Scott of Baton Rouge, Soulé and Wederstrandt voted in the negative—15 nays; consequently said motion was carried.

Mr. Soule submitted the following resolution, which was read and adopted, viz:

Resolved, That a period not to exceed thirty days be allowed to the reporters to conclude their labors, in compensation for which they shall be paid by the treasurer on their warrant, countersigned by the secretary.

Mr. Cenas submitted the following resolution, and the same was unanimously adopted, viz:

Resolved, That the thanks of this Convention be tendered to Wm. Debuys, Esq., state treasurer, for his kindness in assuming the troublesome task of keeping the account and paying the warrants of the members of the Convention.

Mr. Taylor of Assumption, offered the following resolution, and the same was adopted, viz:

Resolved, That when the Convention adjourns this day it will adjourn to meet at 12 o'clock, m., to-morrow.

Mr. Taylor of Assumption, offered the following resolution, and the same was adopted, viz:

Resolved by the Convention, That the president be authorized to close the session of the Convention, by adjourning it on to-morrow, the 16th day of May, 1845, *sine die*.

On motion, the Convention adjourned till to-morrow, at 12 o'clock, m.

Friday, May 16, 1845.

The Convention met pursuant to adjournment.

The Rev. Mr. Clark opened the proceedings with prayer.

Mr. Read offered the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be authorized to issue a warrant in favor of James Carpenter for the sum of three dollars.

Mr. Read submitted the following resolution, and the same was unanimously adopted, viz:

Resolved, that the sum of two hundred dollars be allowed A. Duplantier, as extra compensation for his faithful and laborious services in the capacity of minute clerk, and that the committee on contingent expenses be authorized to issue a warrant for said sum.

Mr. Lewis submitted the following resolution, and the same was adopted, viz:

Resolved, that the committee on contingent expenses be authorized to advance to the secretary of this convention the amount of his per diem for thirty days services, to be rendered by him after the adjournment on this day.

On motion the sum of one hundred dollars was allowed Gaspard Debuys for services rendered as assistant recording clerk.

Mr. Mayo submitted the following resolution, and the same was adopted, viz:

Resolved, that five thousand copies of

the new constitution, in the English, and the same number in the French language, be printed under the direction of the secretary of the Convention, and distributed by him to the members for the use of their constituents, at the expense of the State; provided he can procure the same to be done at an expense not exceeding three hundred dolars.

Mr. ROSELIUS submitted the following resolution, and the same was adopted, viz:

Resolved, that the sum of one hundred and twenty-five dollars be paid by the treasurer of the State to Besançon, Ferguson & Co., for printing the reports and bills of the House, since the bill allowed by the Convention; and that the secretary of the Convention be instructed to pay the printers of the Convention at the rate of two dollars per page, for such number of pages as may be printed after the period of such allowance, to complete the work.

Mr. MARIGNY submitted the following resolution, and the same was adpted, viz:

Resolved, that the sum of two hundred dollars be allowed to Mr. Foulhouse, and the sum of two hundred dollars be allowed to Mr. R. J. Kerr, as a compensation for their services as reporters of the Convention.

Mr. Culbertson submitted the following resolution, and the same was adopted, viz:

Resolved, that the sum of one hundred dollars be allowed Mr. Alexander Derbes, and that the sum of one hundred dollars be allowed Theodule Montreuil, as an extra compensation for services rendered as translating clerks.

Mr. GARCIA submitted the following resolution, and the same was adopted, viz:

Resolved, that the translator of the constitution, Edward Louvet, Esq., be allowed his per diem, at the rate of eight dollars, and that he receive the same compensation which was allowed to the other translating clerks.

Mr. SOULE, chairman of the committee of enrolment, reported the constitution enroled, viz:

CONSTITUTION OF THE STATE OF LOUISIANA.

PREAMBLE.

We the people of the State of Louisiana do ordain and establish this Constitution.

TITLE I.

DISTRIBUTION OF POWERS.

ART. 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one; those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The legislative powers of the State shall be vested in two distinct branches, the one to be styled the "house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November, every two years; and the election shall be completed in one day. The general assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed by law, and their session shall be held at the seat of government.

ART. 6. No person shall be a representative, who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

ART. 7. Elections for representatives for the several parishes or representative districts shall be held at the several election precincts established by law. The legislature may delegate the power of establishing election precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives, shall be equal and uniform, and shall be regulated and ascertained by

the number of qualified electors. Each parish shall have at least one representative; no new parish shall be created with a territory less than six hundred and twenty-five square miles, ner with a number of electors less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first enumeration to be made by the State authorities under this constitution shall be made in the year 1847, the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law for the purpose of ascertaining the total population and the number of qualified electors in each parish and election district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election districts on the basis of qualified electors as aforesaid. A representative number shall be fixed, and each parish and election district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi, shall be divided into nine representative districts, as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamin, Estelle and Thalia streets.

2d. Second district to extend from the last mentioned limits to the middle of Julia street, until it strikes the New Orleans canal, thence down said canal to the lake.

3d. Third district to comprise the residue of the Second Municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of St. Louis street, until it reaches the Metairie road, thence along said road to the New Orleans canal.

5th. Fifth district to extend from the last mentioned limits to the middle of St. Philip street, thence down said street until its interseetion with the bayou St. John, thence along the middle of said bayou until it intersects the Metairie road, thence along said road until it reaches St. Louis street.

6th. Sixth district to be composed of the residue of the First Municipality.

7th. Seventh district, from the middle Esplanade street to the middle of Champs Elysées street.

8th. Eighth district, from the middle of Champs Elysées street to the middle of Enghein street and Lafayette Avenue.

9th. Ninth district, from the middle of Enghein street and Lafayette Avenue to the lower limits of the parish.

Art. 9. The house of representatives shall choose its speaker and other officers.

Art. 10. In all elections by the people, every free white male who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting. *Provided*, that no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall, in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

Art. 11. Absence from the State for more than ninety consecutive days, shall interrupt the acquisition of the residence required in the preceding article, unless the person absenting himself shall be a housekeeper, or shall occupy a tenement for carrying on business, and his dwelling house or tenement for carrying on business shall be actually occupied during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

Art. 12. No soldier, seaman or marine in the army or navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in the State.

Art. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and in

cities and towns divided into election precincts, in the election precinct in which he resides.

ART. 14. The members of the senate shall be chosen for the term of four years. The senate when assembled, shall have the power to choose its officers every two years.

ART. 15. The legislature in every year in which they shall apportion representation in the house of representatives shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, that no parish shall be entitled to more than one-eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if in the apportionment to be made, a parish or district fall short of or exceed the ratio, one-fifth, then a district may be formed having not more than two senators, but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the eighth article, the legislature shall not pass any laws until an apportionment of the representation in both houses of the general assembly be made.

ART. 17. At the first session of the general assembly, after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and the lots shall be drawn between them.

ART. 18. No person shall be a senator, who at the time of his election, has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and the last year thereof in the district in which he may be chosen.

ART. 19. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of service may have expired.

ART. 20. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorised by law to compel the attendance of absent members.

ART. 21. Each house of the general assembly shall judge of the qualification, election and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 22. Each house of the general Assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and with the concurrence of two-thirds expel a member, but not a second time for the same offence.

ART. 23. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 24. Each house may punish by imprisonment any person not a member, for disrespectful and disorderly behavior, in its presence or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 25. Neither house, during the session of the general assembly, shall without the consent of the other, adjourn for more

of the senators of the first class shall be vacated at the expiration of the second year, than three days, nor to any other place than that in which they may be sitting.

Art. 26. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alterations shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days, shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

Art. 27. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses; and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

Art. 28. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

Art. 29. No person, while he continues to exercise the functions of a clergyman, priest or teacher of any religious persuasion, society or sect, shall be eligible to the general assembly.

Art. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the general assembly, or to any other office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

Art. 31. No bill shall have the force of a law until on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless in case of urgency, four-fifths of the house, where the bill shall be pending, may deem it expedient to dispense with this rule.

Art. 32. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills; *provided*, they shall not introduce any new matter under the color of an amendment which does not relate to raising revenue.

Art. 33. The general assembly shall regulate by law, by whom, and in what manner, writs of election shall be issued, to fill the vacancies which may happen in either branch thereof.

Art. 34. A majority of all the members elected to the senate, shall be required for the confirmation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

Art. 35. Returns of all elections for members of the general assembly shall be made to the secretary of state.

Art. 36. A treasurer of the State shall be elected biennially, by joint ballot of the two houses of the general assembly. The governor shall have the power to fill any vacancy that may happen in that office during the recess of the legislature.

Art. 37. In the year in which a regular election of a senator of the United States is to take pluce, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

TITLE III.

EXECUTIVE DEPARTMENT.

Art. 38. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years;

and together with the lieutenant governor chosen for the same term, be elected as follows:—The qualified electors for representatives, shall vote for a governor and lieutenant governor, at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning officer to the secretary of state; who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly, then next to be holden. The members of the general assembly shall meet in the house of representatives, to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected, but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant governor shall be lieutenant governor, but if two or more persons shall be equal and highest in the number of votes polled for lieutenant governor, one of them shall be immediately chosen lieutenant governor by joint vote of the members of the general assembly.

Art. 39. No person shall be eligible to the office of governor or lieutenant governor, who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within this State for the same space of time next preceding his election.

Art. 40. The governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall have been declared duly elected, and shall have taken the oath or affirmation prescribed by this Constitution.

Art. 41. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

Art. 42. No member of congress or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant governor.

Art. 43. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation or absence from the State, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability; or refusal to qualify, of both the governor and lieutenant governor, declaring what officer shall act as governor, and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

Art. 44. The lieutenant governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled, had he continued in office.

Art. 45. The lieutenant governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate the senators shall elect one of their own members as president of the senate for the time being.

Art. 46. While he acts as president of the senate, the lieutenant governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

Art. 47. The governor shall have power to grant reprieves for all offences against the State, and except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures, after conviction. In cases of treason he may grant reprieves, until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

Art. 48. The governor shall at stated times receive for his services a compensation, which shall neither be increased or diminished during the term for which he shall have been elected.

Art. 49. He shall be commander-in-chief of the army and navy of this State and of the militia thereof, except when they shall be called into the service of the United States.

Art. 50. He shall nominate, and by and

with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, and whose appointment is not therein otherwise provided for: Provided, however, that the legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 51. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution; but no person who has been nominated for office, and rejected by the senate, shall be appointed to the same office during the recess of the senate

ART. 52. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

ART. 53. He shall from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 54. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place if that should become dangerous from an enemy or from epidemics; and in case of disagreemet between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 55. He shall take care that the laws be faithfully executed.

ART. 56. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by adjournment, prevent its return; in which case it shall bea law, unless sent back within three days after their next meeting.

ART. 57. Every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected to each house of the general assembly.

ART. 58. There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and when necessary shall attest them. He shall, when required, lay the said register, and all papers, minutes and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 59. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

ART. 60. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

ART. 61. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

TITLE IV.

JUDICIARY DEPARMENT.

ART. 62. The judicial power shall be vested in a supreme court, in district courts and in justices of the peace.

ART. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases when the matter

in dispute shall exceed three hundred dollars, to all cases in which the constitutionality of any tax, toll, or impost of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures and penalties imposed by municipal corporations; and in criminal cases on questions of law alone, whenever the punishment of death or hard labor may be inflicted, or when a fine exceeding three hundred dollars is actually imposed.

ART. 64. The supreme court shall be composed of one chief justice and of three associate judges, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars, annually. The said court shall appoint its own clerks. The said judges shall be appointed for the term of eight years.

ART. 65. When the first appointments are made under this constitution, the chief justice shall be appointed for the term of eight years, one of the associate judges for six years, one for four years and one for two years; and in the event of the death, resignation, or removal of any of said judges, before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of his term: so that the term of office of no two of said judges shall expire at the same time.

ART. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 67. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 68. In all cases in which the judges shall be equally dived in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinion in writing.

ART. 69. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "the State of Louisiana." All prosecutions shall be carried on "in the name and by the authority of the State of Louisiana," and conclude "against the peace and dignity of the same."

ART. 70. The judges of all courts within this State shall, as often as it is possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which such judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings, except for the payment of such fees to the ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office, or other compension than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonsable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly. In every such case, the cause or causes for which such removal may be required, shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART. 75. The first legislature assembled under this constitution, shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shell not be less than twelve, nor more than twenty.

For each district one judge, learned in the law shall be appointed, except in the district in which the cities of New Orleans

id Lafayette are situated, in which the gislature many establish as many district ourts as the public interest may require.

ART. 76. Each of the said judges shall eceive a salary to be fixed by law, which hall not be increased or diminished dur- ig his term of office, and shall never be ss than two thousand five hundred dol- rs annually. He must be a citizen of he United States, over the age of thirty ears, and have resided in the State for six ears next preceding his appointment, and ave practiced law therein for the space of ve years.

ART. 77. The judges of the district ourts shall hold their offices for the term f six years. The judges first appointed hall be divided by ballot into three class- s, as nearly equal as can be; and the term f office of the judges of the first class hall expire at the end of two years, of he second class at the end of four years, nd of the third class at the end of six ears.

ART. 78. The district courts shall have riginal jurisdiction in all civil cases when he amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal ca- es, and in all matters connected with suc- essions, their jurisdiction shall be unlim- ited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders, and do such acts as may be deemed necessary for the further- ance of the administration of justice; and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts snall be removable, for breach of good behavior, by the judges thereof; subject in all cases to an appeal to the su- preme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed in civil cases the sum of one hundred dollars, exclusive of interest, subject to an appeal to the dis- trict court in such cases as shall be provid- ed for by law. They shall be elected by the qualified voters of each parish, for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the disirict courts in this State shall be elected by the quali- fied electors in each parish for the term of four years, and should a vacancy occur sub- sequent to an election, it shall be filled by the judge of the court in which such vacan- cy exists, and the person so appointed shall hold his office until the next general elec- tion.

ART. 83. A sheriff and a coroner shall be elected in each parish, by the qualified voters thereof, who shall hold their offices for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

TITLE V.

IMPEACHMENT.

ART. 84. The power of impeachment shall be vested in the house of representa- tives.

ART. 85. Impeachments of the gover- nor, lieutenant governor, attorney general, secretary of State, State treasurer, and the judges of the district courts, shall be tried by the senate; the chief justice of the su- preme court, or the senior judge thereof, shall preside during the trial of such im- peachments. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of im- peachment, the senators shall be upon oath or affirmation, and no person shall be con- victed without the concurrence of two- thirds of the senators present.

ART. 86. Judgments in cases of im- peachment shall extend only to removal from office and disqualification from hold- ing any office of honor, trust or profit un- der this State; but the parties convicted shall, nevertheless, be subject to indict- ment, trial and punishment, according to law.

ART. 87. All officers against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions during the pendency of such im- peachment. The appointing power may make a provisional appointment to replace any suspended officer until the decision on the impeachment.

ART. 88. The legislature shall provide by law for the trial, punishment and remo- val from office of all other officers of the State, by indictment or otherwise.

On motion, the report of the committee

of revision in relation to public education was taken up for its third reading, viz:

TITLE VI.

GENERAL PROVISIONS.

ART. 89. Members of the general assembly, and all officers, before they enter upon the duties of their offices shall take the following oath or affirmation:

I (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States, and of this State; and I do further solemnly swear (or affirm) that since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, with a citizen of the State, nor have I sent or acepted a challenge to fight a duel with deadly weapons with a citizen of the State, nor have acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending, so help me God."

ART. 90. Treason against the State shall consist only in levying war against, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of trust or profit in this State, who shall have been convicted of having given, or offered a bribe to procure his election or appointment.

ART. 92. Laws shall be made to exclude from office and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors.

The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult or other improper practice.

ART. 93. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money shall b published annually, in such manner a shall be prescribed by law.

ART. 94. It shall be the duty of the gen eral assembly to pass such laws as may b necessary and proper to decide difference by arbitration.

ART. 95. All civil officers for the Stat at large shall reside within the State, an all district or parish officers within thei districts or parishes, and shall keep thei offices at such places therein as may b required by law. No person shall b elected or appointed to any parish offic who shall not have resided in such paris long enough before such election or ap pointment, to have acquired the right voting in such parish; and no person sha be elected or appointed to any distri office, who shall not have resided in suc district, or an adjoining district, lon enough before such appointment, or ele tion, to have acquired the right of votin in the same.

ART. 96. The duration of all offices n fixed by this constitution, shall never e ceed four years.

ART. 97. All civil officers, except th governor and judges of the supreme an district courts, shall be removeable by a address of a majority of the members both houses, except those the removal whom has been otherwise provided for b this constitution.

ART. 98. Absence on business of th State or of the United State, shall not fo feit a residence once obtained, so as to d prive any one of the right of suffrage, of being elected or appointed to any offic under the exceptions contained in this co stitution.

ART 99. It shall be the duty of the l gislature to provide by law for deductio from the salaries of public officers wh may be guilty of a neglect of duty.

ART. 100. The legislature shall poi out the manner in which a person comi into the State shall declare his residence

ART. 101. In all elections by the peop the vote shall be by ballot, and in all ele tions by the senate and house of represe tatives, jointly or separately, the vote sha be given *viva voce.*

ART. 102. No member of congress, n person holding or exercising any office trust or profit under the United States,

ther of them, or under any foreign power, all be eligible as a member of the gene- l assembly, or hold or exercise any office trust or profit under the State.

ART. 103. The laws, the public records d the judicial and legislative written pro- edings of the State, shall be promulgated, eserved and conducted in the language which the constitution of the United ates is written.

ART. 104. The secretary of the senate, d clerk of the house of representatives, all be conversant with the French and nglish languages, and members may ad- ess either house in the French or English nguage.

ART. 105 The general assembly shall rect by law, how persons who are now, may hereafter become sureties for pub- c officers, may be discharged from such uretyship.

ART. 106. No power of suspending the ws of this State shall be exercised, unless y the Legislature or its authority.

ART. 107. Prosecutions shall be by in- ictment, or information. The accused hall have a speedy public trial by an im- artial jury of the vicinage : he shall not be ompelled to give evidence against himself; e shall have the right of being heard by imself or counsel ; he shall have the right, nless he shall have fled from justice, of eeting the witnesses face to face, and hall have compulsory process for obtaining vitnesses in his favor.

ART. 108. All prisoners shall be baila- le by sufficient sureties, unless for capital ffences, where the proof is evident, or pre- umption great ; and the privilege of the rit of *habeas corpus* shall hot be suspen- led, unless when in case of rebellion or in- asion the public safety may require it.

ART. 109. No *ex post facto* law, nor any aw impairing the obligation of contracts, hall be passed ; nor vested rights be di- ested unless for purposes of public utility, nd for adequate compensation previously nade,

ART. 110. The press shall be free. Ev- ry citizen may freely speak, write and pub- ish his sentiments on all subjects ; being esponsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The general assembly which hall meet after the first election of repre- sentatives under this Constitution, shall, within the first month after the commence- ment of the session, designate and fix the seat of government, at some place not less than sixty miles from the city of New Or- leans, by the nearest travelling route ; and if on the Mississippi river, by the mean- ders of the same : and when so fixed, it shall not be removed without the consent of four fifths of the members of both hous- es of the general assembly. The sessions shall be held in New Orleans until the end of the year 1848.

ART. 113. The legislature shall not pledge the faith of the State for the pay- ment of any bonds, bills, or other contracts or obligations for the benefit or use of any person or persons, corporation or body po- litic whatever. But the State shall have the right to issue new bonds in payment of its outstanbing obligations or liabilities, whether due or not ; the said new bonds, however, are not to be issued for a larger amount or at a higher rate of interest, than the original obligations they are intended to replace.

ART. 114. The aggregate amount of debts hereafter contracted by the legisla- ture, shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions or suppres insur- rections, unless the same be authorized by some law, for some single object or work, to be distinctly specified therein ; which law shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity, of the capital bor- rowed ; and said law shall be irrepealable until principal and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

ART. 115. The legislature shall pro- vide by law for a change of venue in civil and criminal cases.

ART. 116. No lottery shall be authorized by this State, and the buying or sellingof lot- tery tickets wiihin the State is prohited.

ART. 117. No divorce shall be granted by the Legislature.

ART. 118. Every law enacted by the le- gislature shall embrace but one object, and that shall be expressed in the title.

ART. 119. No law shall be revived or amended by reference to its title; but in such case, the act revived, or section amended, shall be re-enacted and published at length.

ART. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws; but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint stock company.

ART. 122. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

ART. 123. Corporations shall not be created in this State by special laws, except for political or municipal purposes; but the legislature shall provide by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

ART. 124. From and after the month of January, 1890, the legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

ART. 125. The general assembly shall never grant any exclusive privilege or monopoly, for a longer period than twenty years.

ART. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace.

ART. 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property, on which taxes may be levied in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession.

ART. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police o the said city, pursuant to the mode of elec tions which shall be prescribed by th legislature; provided, that the mayor an recorders shall be ineligible to a seat i the general assembly; and the mayor, re corders and aldermen shall be commission ed by the governor as justices of the peace and the legislature may vest in them suc criminal jurisdiction as may be necessar for the punishment of minor crimes an offences, and as the police and good orde of said city may require.

ART. 129. The legislature may provid by law in what case officers shall continu to perform the duties of their offices un their successors shall have been inducte into office.

ART. 130. Any citizen of this State wh shall, after the adoption of this constitution fight a duel with deadly weapons with citizen of this State, or send or accept challenge to fight a duel with deadly wea pons, either within the State or out of it with a citizen of this State, or who shal act as second, or knowingly aid and assis in any manner those thus offending, shal be deprived of holding any office of trus or profit, and of enjoying the right of suffrage under this constitution.

ART. 131. The legislature shall have power to extend this constitution, and the jurisdiction of this State over any territory acquired by compact with any State, o with the United States, the same being done by the consent of the United States.

ART. 132. The constitution and laws o this State. shall be promulgated in the English and French languages.

TITLE VII.

PUBLIC EDUCATION.

ART. 133. There shall be appointed a superintendent of public education, who shall hold his office for two years. His duties shall be prescribed by law. He shall receive compensation as the legislature may direct.

ART. 134. The legislature shall establish free public schools throughout the State, and shall provide means for their support by taxation on property or otherwise.

ART. 135. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not

xpressly granted or bequeathed for any ther purpose, which hereafter may be isposed of by the State, and the proceeds f the estates of deceased persons to which he State may become entitled by law, hall be held by the State as a loan, and hall be and remain a perpetual fund, on hich the State shall pay an annual inter- st of six per cent; which interest together ith all the rents of the unsold lands, shall e appropriated to the support of such chools, and this appropriation shall remain nviolable.

ART. 136. All moneys arising from the le which have been or may hereafter be ade of any lands heretofore granted by the nited States to this State, for the use of a eminary of learning, and from any kind of nation that may hereafter be made for at purpose, shall be and remain a perpet- l fund, the interest of which at six per nt per annum, shall be appropriated to e support of a seminary of learning for e promotion of literature and the arts and iences, and no law shall ever be made verting said fund to any other use than to e establishmeht and improvement of said minary of learning.

ART. 137. An university shall be estab- hed in the city of New Orleans. It shall composed of four faculties, to wit: one law, one of medicine, one of the natural iences, and one of letters.

ART. 138. It shall be called "the Uni- rsity of Louisiana," and the Medical Col- ge of Louisian as at present organized, all constitute the faculty of medicine.

ART. 139. The legislature shall provide law, for its further organization and go- rnment; but shall be under no obligation contribute to the establishment or sup- rt of said university by appropriations.

TITLE VIII.

MODE OF REVISING THE CONSTITUTION.

ART. 140. Any amendment or amend- ents to this Constitution may be propo- d to the senate or house of representa- es, and if the same shall be agreed to three-fifths of the members elected to ch house, and approved by the governor, ch proposed amendment or amendments all be entered on their journals, with e yeas and nays taken thereon, and the cretary of state shall cause the same to e published, three months before the next neral election, in at least one newspa- pers in French and English, in every parish in the State in which a newspaper shall be published; and if, in the legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the qualified electors shall approve and ratify such amendment or amendments, the same shall become a part of the constitution. If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment, separately.

TITLE IX.

SCHEDULE.

ART. 141. The Constitution adopted in 1812 is declared to be superseded by this Constitution, and in order to carry the same into effect, it is hereby declared and ordained as folllows:

ART. 142. All rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, and all laws in force at the time of the adoption of this Constitution, and not inconsistent therewith shall continue as if the same had not been adopted.

ART. 143. Until the first enumeration shall be made as directed in article eighth, of this Constitution, the parish of Orleans shall have twenty representatives, to be elected as follows, viz:

Eight by the First Municipality, seven by the Second Municipality, and four by the Third Municipality, to be distributed among the nine representative districts as follows, by allotting to the

First district,		two Rep.
Second	"	two
Third	"	three
Fourth	"	three
Fifth	"	three
Sixth	"	two
Seventh	"	two
Eighth	"	one
Ninth	"	one

And to that part of the parish on the right bank of the Mississippi, one

The parish of Plaquemines, shall have		three
"	St. Bernard,	one
"	Jefferson,	three
"	St. Charles,	one
"	St. John the Baptist,	one
"	St. James,	two
"	Ascension,	two
"	Assumption,	three
"	Lafourche Interior,	three
"	Terrebone,	two
"	Iberville,	two
"	West Baton Rouge,	one
"	East do.	three
"	West Feliciana,	two
"	East do	three
"	St. Helena,	one
"	Washington,	one
"	Livingston,	one
"	St. Tammany,	one
"	Point Coupée,	one
"	Concordia,	one
"	Tensas,	one
"	Madison,	one
"	Carroll,	one
"	Franklin,	one
"	St. Mary,	two
"	St. Martin,	three
"	Vermillion,	one
"	Lafayette,	two
"	St. Landry,	five
"	Calcasieu,	one
"	Avoyelles	two
"	Rapides,	three
"	Natchitoches,	three
"	Sabine,	two
"	Caddo,	one
"	De Soto,	one
"	Ouachita,	one
"	Morehouse,	one
"	Union	one
"	Jackson,	one
"	Caldwell,	one
"	Catahoula,	two
"	Claiborne,	two
"	Bossier,	one

Total, ninety-eight.

And the State shall be divided into the following senatorial districts:

All that portion of the parish of Orleans lying on the east side of the Mississippi river shall compose one senatorial district, and shall elect four senators;

The parishes of Plaquemines, St. Bernard, and that part of the parish of Orleans lying on the right bank of the river, shall compose one district, with one senator;

The parish of Jefferson shall compose one district, with one senator;

The parishes of St. Charles and St. John the Baptist shall compose one district, with one senator;

The parish of St. James shall compose one district, with one senator;

The parish of Ascension shall compose one district with one senator;

The parishes of Assumption, Lafourche Interior and Terrebonne shall compose one district, with two senators;

The parishes of Iberville and West Baton Rouge shall compose one district with one senator;

The parish of East Baton Rouge shall compose one district, with one senator;

The parish of Point Coupée shall compose one district, with one senator;

The parish of Avoyelles shall compose one district, with one senator;

The parish of St. Mary shall compose one distrtct, with one senator;

The parish of St. Martin shall compose one district, with one senator;

The parishes of Lafayette and Vermillion shall compose one district, with one senator;

The parishes of St. Landry and Calcasieu, shall compose one district, with two senators;

The parish of West Feliciana shall compose one district, with one senator;

The parish of East Feliciana shall compose one district, with one senator;

The parishes of St. Helena and Livingston shall compose one district, with one senator;

The parishes of Washington and St. Tammany, shall compose one district, with one senator;

The parishes of Concordia and Tensas shall compose one district with one senator;

The parishes of Carroll and Madison shall compose one district, with one senator;

The parishes of Jackson, Union, Morehouse and Ouachita shall compose one district, with one senator;

The parishes of Caldwell, Franklin and Catahoula shall compose one district, with one senator;

The parish of Rapides shall compose one district, with one senator;

The parishes of Bossier and Claiborne shall compose one district, with one senator;

The parish of Natchitoches shall compose one district, with one senator;

The parishes of Sabine, De Soto and Caddo shall compose one district, with one senator;

And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken or to another contiguous district at the discretion of the legislature, but shall not be attached to more than one district.

ART. 144. In order that no inconvenience may result to the public service from the taking effect of this Constitution, no office shall be superseded thereby; but the laws of the State relative to the duties of the several officers, executive, judicial and military, shall remain in full force, though the same be contrary to this Constitution, and the several duties shall be performed by the respective officers of the State according to the existing laws, until the organization of the government under this Constitution, and the entering into office of the new officers, to be appointed under said government, and no longer.

ART. 145. Appointments to office by the executive under this Constitutton, shall be made by the governor to be elected under its authority.

ART. 146. The provisions of article 28, concerning the inability of members of the legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first legislature elected under this Constitution.

ART. 147. The time of service of all officers chosen by the people, at the first election under this Constitution, shall terminate as though the election had been holden on the first Monday of November 1845, and they had entered on the discharge of their duties at the time designated therein.

ART. 148. The legislature shall provide for the removal of all causes now pending in the supreme or other courts of the courts under the Constitution of 1812, to State created by this Constitution.

ART. 149. Appeals to the supreme court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas, and Concoreia, shall until otherwise provided for, be returnable to New Orleans.

TITLE X.

ORDINANCE.

ART. 150. Immediately after the adjournment of the Convention, the governor shall issue his proclamation, directing the several officers of this State authorized by law to hold elections for members of the general assembly, to open and hold a poll in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of the said officers to recive the votes of all persons entitled to vote under the old constitution and under this constitution. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written "the constitution accepted," or "the constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the parish judges and commissioners designated to preside over the same, shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of state, in conformity to the provisions of the existing law upon the subject of elections.

ART. 151. Upon the receipt of the said returns, or on the first Monday of December if the returns be not sooner received, it shall be the duty of the governor, the secretary of state, the attorney general, and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given at the said poll, for the ratification and rejection of this constitution, and if it shall appear from said returns that a majority of all the votes given is for ratifying this constitation, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of the State of Louisiana. But whether this constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the polls, showing the number of votes cast in each parish, for and against the said constitution.

ART. 152. Should this constitution be

accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation declaring the present legislature elected under the old constitution, to be dissolved, and directing the several officers of the State, authorized by law, to hold elections for members of the general assembly, to hold an election at the places designated by law, on the third Monday in January next, (1846) for governor, lieutenant governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution. And the said election shall be conducted and the returns thereof made in conformity with existing laws upon the subject of State elections.

ART. 153. The general assembly elected under this constitution shall convene at the state house, in the city of New Orleans, upon the second Monday of February next, (1846) after the elections; and that the governor and lieutenant governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

On motion of Mr. LEWIS, the secretary was ordered to call the names of the delegates by counties, to sign the constitution, and the following members affixed their signatures to the same, to wit:

Joseph Walker, President of the Convention, and senatorial delegate of the county of Rapides,

Isaac T. Preston,
F. B. Conrad,
Felix Garcia,
V. DuBouchel,
T. M. Wadsworth,
C. M. Conrad,
John Culbertson,
George Eustis,
Bernard Marigny,
Christian Roselius,
J. P. Benjamin,
H. B. Cenas,
Zenon LaBauve,
Wm. Bernard Scott,
Amasa Read,
B. Derbes,
Thos. H. Lewis, of the district of Opelousas,
Green Hudspeth,
John Blake Wederstrandt,
Pierre Covillion,
M. B. Prescott,
Phanor Prudhomme,
Thos. C. Porter,
Geo. W. Peets.
Wm. D. Stephens,
S. W. Downs, of the Ouachita senatorial district,
Isaiah Garrett,
Jacob Humble,
Pierre Porche,
Zenon Ledoux, Jr.
Walthall Burton,
P. Soulé,
James McCallop,
A. R. Splane,
P. Briant,
A. Waddill,
W. M. Prescott,
Stephen W. Wikoff,
R. Taylor,
J. Fenwick Brent,
Robert C. Hynson,
Thos. B. Scott,
G. Mayo,
A. H. McRae,
A. M. Dunn, of Feliciana,
R. Cade, of Lafayette,
C. Voorhies, of Atakapas,
Thos. W. Chinn, of N. Baton Rouge,
L. Saunders, of E. Feliciana,
Miles Taylor, of Assumption,

Attest,

HORATIO DAVIS,
Secretary of the Convention.

Mr. GARCIA, offered the following resolution, which was read and adopted, viz:

Resolved, that the thanks of the Convention be tendered to its reporters, Messrs. James Foulhouze and Robert Kerr, for the care and accuracy with which they have complied with the arduous and delicate task imposed on them.

On motion, the Convention adjourned, *sine die*.

Attest, HORATIO DAVIS,
Secretary of the Convention.